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1972 ANNOTATED

Issued December 2020

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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CHAPTER 5.
STATE PORTS AND HARBORS

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1. Venue.

Pursuant to the general venue statute, venue was proper in the First Judicial District of Harrison County because the Mississippi State Port Authority "resided" there; the Port Authority's offices, operations, employees, and commissioners were located in Harrison County, and thus, the Port Authority both "resided" and had its "principal place of business" in Harrison County. Miss. State Port Auth. at Gulfport v. S. Indus. Contrs. LLC, 271 So. 3d 742, 2018 Miss. App. LEXIS 653 (Miss. Ct. App. 2018).

§ 59-5-37. Employment of personnel, execution of contracts, etc., for development, promotion, maintenance, etc., of ports, harbors, rivers, etc.; suits by and against state port authority; advertising and bidding requirements for contracts or purchases; use of design-build method of contracting [Subsection (3) repealed effective July 1, 2024].

(1) The board or State Port Authority, in the performance of its duties,

may employ such personnel and make all contracts and purchases incidental to or necessary for the advancement, promotion, development, establishment, insurance, maintenance, repair, improvement and operation of any ports, harbors, rivers, channels and waterways including, if required for its protection, retirement benefits, workers' compensation insurance and other employee benefits for the benefit of any employees of the board or State Port Authority. The board or State Port Authority may establish a trade development and promotion account to pay all direct and necessary expenses for the promotion and development of the state port. The authority is granted the power to sue and be sued in its own name.

(2)(a) The board or State Port Authority may, in its discretion, make such contracts or purchases according to the state purchasing laws. Contracts let for any port, harbor, river, channel or waterway improvements shall be advertised as required by law for the letting of public contracts, and such contracts shall be awarded to the lowest and best bidder who shall make bond as shall be required by the board or State Port Authority conditioned for the faithful prosecution and completion of work according to such contracts, such bond to be furnished by a corporate surety company qualified to do business in this state. However, the board may negotiate and enter into contracts with responsible lessees for the construction of facilities by lessees, such as those referred to in Section 59-5-11, and the acquisition thereof by the board upon such terms and conditions and for such amount as may be approved by the board.

(b) The State Port Authority shall be considered to be a "governing authority" under the state public purchasing laws as that term is defined in Section 31-7-1 and used in Sections 31-7-1 through 31-7-73, and shall not be subject to the jurisdiction of the Department of Finance and Administration, the Public Procurement Review Board or the Bureau of Building, Grounds and Real Property Management under the provisions of Sections 27-104-7, 29-5-2 and 31-11-3.

(3)(a) The board or State Port Authority, in its discretion, may use the design-build method of contracting for the renovation, repair and/or making of other improvements to not more than one (1) freezer and related equipment and/or facilities at the State Port at Gulfport, Mississippi. Notwithstanding any other provision of law to the contrary, any port or port commission may use the design-build method of contracting for the renovation, repair and/or making of other improvements to equipment and/or facilities at the port. For the purposes of this subsection (3), the term "design-build method of contracting" means a contract that combines the design and construction phases of a project into a single contract and the contractor is required to satisfactorily perform, at a minimum, both the design and construction of the project.

(b) This subsection (3) shall stand repealed from and after July 1, 2024.

HISTORY: Codes, 1942, § 7564-13; Laws, 1958, ch. 365, § 13; Laws, 1962, ch. 389; Laws, 1976, ch. 400, § 2; Laws, 1984; reenacted and amended, 1985, ch. 474, § 17; Laws, 1986, ch. 438, § 39; Laws, 1987, ch. 483, § 40; Laws, 1988, ch. 442,

§ 37; Laws, 1989, ch. 537, § 35; Laws, 1990, ch. 518, § 36; Laws, 1991, ch. 618, § 36; Laws, 1992, ch. 491, § 38; Laws, 1997, ch. 401, § 1; Laws, 2001, ch. 321, § 1; Laws, 2008, ch. 544, § 1; Laws, 2010, ch. 535, § 1; Laws, 2012, ch. 485, § 5; Laws, 2013, ch. 347, § 1; Laws, 2016, ch. 417, § 1, eff from and after July 1, 2016; Laws, 2020, ch. 404, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment extended the date of the repealer for (3) by substituting "July 1, 2020" for "July 1, 2016" in (3)(b).

The 2020 amendment, in (3), added the second sentence in (a), and extended the date of the repealer for subsection (3) by substituting "July 1, 2024" for "July 1, 2020" in (b).

JUDICIAL DECISIONS

1. Venue.

Pursuant to the general venue statute, venue was proper in the First Judicial District of Harrison County because the Mississippi State Port Authority "resided" there; the Port Authority's offices, operations, employees, and commissioners were located in Harrison County, and thus, the Port Authority both "resided" and had its "principal place of business" in Harrison County. Miss. State Port Auth. at Gulfport v. S. Indus. Contrs. LLC, 271 So. 3d 742, 2018 Miss. App. LEXIS 653 (Miss. Ct. App. 2018).

CHAPTER 17.

STATE INLAND PORTS

Sec.

59-17-1. Short title; "board" defined.
59-17-13. General powers of board; State Inland Port Authority authorized to borrow money and to enter into a joint agreement with a county or municipality to issue revenue bonds; leases executed by State Inland Port Authority exempt from ad valorem taxes if so stipulated in lease.
59-17-15. Acceptance of grants and contributions by board.
59-17-29. Setting aside or leasing of lands and facilities by board.
59-17-31. Authority of board or inland port authority to employ personnel, make contracts and purchases, and sue and be sued.
59-17-41. State bonds; payment of principal and interest; limitation on amount issued.

§ 59-17-1. Short title; "board" defined.

This chapter may be cited as the "State Inland Ports Law."

As used in this chapter, the word "board" shall mean the Mississippi Development Authority.

HISTORY: Codes, 1942, § 7623-01; Laws, 1968, ch. 430, § 1, eff from and after passage (approved August 8, 1968); Laws, 2018, ch. 351, § 1, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, substituted "Mississippi Development Authority" for "Mississippi Agricultural and Industrial Board" in the second paragraph.

§ 59-17-13. General powers of board; State Inland Port Authority authorized to borrow money and to enter into a joint agreement with a county or municipality to issue revenue bonds; leases executed by State Inland Port Authority exempt from ad valorem taxes if so stipulated in lease.

(1) The board shall have power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, use, control, and operate ports, harbors, waterways, channels, wharves, piers, docks, quays, elevators, tipples, compresses, bulk loading and unloading facilities, warehouses, floating dry docks, graving docks, marine railways, tugboats, machinery and equipment, and water, air and rail terminals, and roadways and approaches thereto, and other structures and facilities needful for the convenient use of the same in the aid of commerce, including the dredging, deepening, extending, widening, or enlarging of any ports, harbors, rivers, channels, and waterways, the damming of inland waterways, the establishment of water basins, the acquisition and development of industrial sites and the reclaiming of submerged lands.

(2) The State Inland Port Authority, subject to the approval of the board, shall have the power to borrow money from any source, public or private, for any of its corporate purposes and to give such security as may be required in connection therewith and to enter into a joint agreement with the boards of supervisors of any county, or the governing authority of any municipality, or both acting jointly, to issue revenue bonds of such county or municipality, or both, acting jointly, as provided by Section 59-7-311 which bonds may be payable out of any revenues of the authority, including grants or contributions from the federal government or other sources. Such revenue bonds may be issued without an election on resolution of the board of supervisors, governing body of the municipality, or both acting jointly, and shall not be subject to any limitation as to amount, and shall not be included or computed in the statutory limitation of indebtedness of any such county or municipality.

(3) All leases which are now in effect or which may hereafter be executed by the State Inland Port Authority for port, harbor, commercial or industrial improvements, and all structures and all improvements and other permanent facilities erected, installed or located by such lessees, or their successors or assignees within the limits of any port, harbor or part thereof, may be free and exempt from all state, county and municipal ad valorem taxes if so stipulated in such lease, and for such period as may be fixed in such lease, not to exceed such periods of time as are now authorized or may be hereafter authorized by law.

HISTORY: Codes, 1942, § 7623-05; Laws, 1968, ch. 430, § 5, eff from and after passage (approved August 8, 1968); Laws, 2018, ch. 351, § 2, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, inserted “machinery and equipment” in (1); and added (2) and (3).

§ 59-17-15. Acceptance of grants and contributions by board.

The board, in addition to the monies which may be received by it from the sale of bonds, the proceeds of a loan, and from the collection of revenues, rents and earnings derived under the provisions of this chapter, shall have the authority to accept from any public or private agency, or from any individual grants or loans for or in aid of the construction of any planned development, or for the payment of bonds, and to receive and accept contributions from any source, of money or property or other things of value to be held, used and applied only for the purposes for which such grants, loans or contributions may be made.

HISTORY: Codes, 1942, § 7623-25; Laws, 1968, ch. 430, § 25, eff from and after passage (approved August 8, 1968); Laws, 2018, ch. 351, § 3, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, substituted "monies" for "moneys," inserted "the proceeds of a loan," "or loans" and "loans."

§ 59-17-29. Setting aside or leasing of lands and facilities by board.

The board, acting jointly with the State Inland Port Authority, is authorized to set aside, or lease all or portions of any lands, roads, docks, sheds, warehouses, elevators, compresses, floating dry docks, graving docks, marine railways, tugboats, or any other necessary or useful improvements constructed or acquired by it to individuals, firms, or corporations, public or private, for port, harbor, commercial or industrial purposes for a period not to exceed ninety-nine (99) years, or to execute a conveyance of sale on such terms and conditions and with such safeguards as would best promote and protect the public interest. Any industrial lease of lands or conveyance of sale may be executed upon such terms and conditions and for such monetary rental or other consideration as may be found adequate and approved by the board in orders or resolutions authorizing the same. Any covenants and agreements of the lessee or purchaser to make expenditures in determined amounts, and within such time or times, for improvements to be erected upon the land by such lessee or purchaser and to conduct thereon industrial and/or other operations in such aggregate payroll amounts and for such period of time as may be determined and defined in such lease or conveyance, and to give preference in employment where practical to residents of the State of Mississippi and to qualified residents of the city and the county in which such port or harbor is located, shall, if included in such lease or conveyance, constitute and be deemed sufficient consideration for the execution of any such lease or conveyance in the absence of monetary rental or other considerations; any such instrument may contain reasonable provisions giving the lessee the right to remove its or his improvements upon the termination of the lease.

HISTORY: Codes, 1942, § 7623-12; Laws, 1968, ch. 430, § 12, eff from and after

passage (approved August 8, 1968); Laws, 2018, ch. 351, § 4, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, in the first sentence, inserted "(99)," and deleted "except as otherwise limited by law" following "execute a conveyance of sale"; inserted "or conveyance of sale" in the second sentence; and combined the last two sentences into a single sentence, and therein, substituted "agreements of the lessee or purchaser to make" for "agreements shall require the lessee to make," inserted "or purchaser" and inserted "or conveyance, and to give preference…in the absence of monetary rental or other considerations; any"; and made a minor grammatical change.

§ 59-17-31. Authority of board or inland port authority to employ personnel, make contracts and purchases, and sue and be sued.

The board or the State Inland Port Authority, in the performance of its duties, may employ such personnel and make all contracts and purchases incidental to or necessary for the advancement, promotion, development, establishment, insurance, maintenance, repair, improvement and operation of any ports, harbors, rivers, channels and waterways, including, if required for its protection, retirement benefits, workers' compensation insurance and other employee benefits for the benefit of any employees of the board or State Inland Port Authority. The board or State Inland Port Authority shall make such contracts or purchases in accordance with state purchasing laws. Contracts let for any port, harbor, river, channel or waterway improvements shall be advertised as required by law for the letting of public contracts, and such contracts shall be awarded to the lowest and best bidder, who shall make such bond as shall be required by the board or State Inland Port Authority, conditioned for the faithful prosecution and completion of the work according to such contract, such bond to be furnished by a corporate surety company qualified to do business in this state. However, the board may negotiate and enter into contracts with responsible lessees for the construction of facilities by lessees, such as those referred to in Section 59-17-13, Mississippi Code of 1972, and the acquisition thereof by the board upon such terms and conditions and for such amounts as may be approved by the board. Where the rentals provided in the lease will be sufficient to fully repay the cost of the particular facility or where the monetary consideration for a deed is sufficient to fully repay the cost of land acquired for industrial operations described in the deed, contracts for construction, repairs, maintenance and operation of the facility or for the sale of the land may be negotiated and consummated without the necessity of advertising and obtaining competitive bids therefor.

The authority is granted the power to sue and be sued in its own name.

HISTORY: Codes, 1942, § 7623-13; Laws, 1968, ch. 430, § 13; Laws, 1976, ch. 400, § 1; Laws, 1984, ch. 495, § 27; reenacted and amended, Laws, 1985, ch. 474, § 18; Laws, 1986, ch. 438, § 40; Laws, 1987, ch. 483, § 41; Laws, 1988, ch. 442, § 38; Laws, 1989, ch. 537, § 36; Laws, 1990, ch. 518, § 37; Laws, 1991, ch. 618, § 37; Laws, 1992, ch. 491, § 39, eff from and after passage (approved May 12,

1992); Laws, 2018, ch. 351, § 5, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, in the first paragraph, divided the former second sentence into the present second and third sentences, in the second sentence, substituted "shall make such contracts or purchases in accordance with state purchasing laws" for "may, in its discretion, make such contract or purchase without the necessity of prior advertisement or public bids, provided such contract or purchase does not involve the expenditure of sums in excess of Two Thousand Five Hundred Dollars ($2,500.00)," and added the last sentence.

§ 59-17-41. State bonds; payment of principal and interest; limitation on amount issued.

The bonds issued under the provisions of this chapter shall be payable from the special fund provided therefor as hereinafter set out and shall be the general obligations of the State of Mississippi and backed by the full faith and credit of the state, and, if the funds supplied by the board to the State Treasurer from the sources prescribed by this chapter be insufficient to fully pay at maturity any installment of interest on said bonds or to pay at maturity the principal of said bonds, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated, and all such bonds shall contain recitals on their face substantially covering the foregoing provisions of this section. The amount of bonds issued for the acquisition and planned development of any state inland ports, harbors or waterways shall not exceed the sum of One Million Five Hundred Thousand Dollars ($1,500,000.00). The purpose of this One Million Five Hundred Thousand Dollar ($1,500,000.00) bond issue is to purchase industrial sites and railroad right-of-way nearby the inland port.

From and after July 1, 1980, and contingent upon the tax levy authorized in Section 59-17-19, an additional amount of bonds not to exceed Two Million Dollars ($2,000,000.00) may be issued pursuant to the provisions of this chapter. The proceeds of such bonds may be used for any activities associated with carrying out the powers described in Section 59-17-13.

HISTORY: Codes, 1942, § 7623-18; Laws, 1968, ch. 430, § 18; Laws, 1980, ch. 530, § 3; Laws, 1981, ch. 356, § 1, eff from and after passage (approved March 18, 1981); Laws, 2018, ch. 351, § 6, eff from and after passage (approved March 15, 2018).

Amendment Notes — The 2018 amendment, effective March 15, 2018, rewrote the second paragraph, which read: "From and after July 1, 1980, and contingent upon the tax levy authorized in Section 59-17-19, an additional amount of bonds not to exceed two million dollars ($2,000,000.00) may be issued pursuant to the provisions of this chapter to be used for the construction of buildings and related facilities and the acquisition of equipment for inland ports organized under this chapter."

CHAPTER 21.

BOATS AND OTHER VESSELS

SAFETY EQUIPMENT; OPERATION OF VESSELS

§ 59-21-83. Operation of vessel in reckless or negligent manner, while operator is incapacitated, etc.

JUDICIAL DECISIONS

1. Relation to Mississippi Torts Claim Act.

Court of appeals erred in reversing the trial court's judgment because it ignored substantial, credible, and reasonable evidence that supported the trial court's finding that Mississippi Department of Wildlife, Fisheries, and Parks officers acted with reckless disregard for the safety of others; the trial court's finding that the officers' testimony was not credible because substantial, credible, and reasonable evidence in the record contradicted the testimony could not be discarded. Miss. Dep't of Wildlife v. Webb, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

Circuit court improperly ruled for a family in their action claiming that Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) conservation officers acted with reckless disregard for the safety of boaters because it erroneously applied the legal standard for reckless disregard; the violation of a MDWFP standard operation procedure failed to establish reckless disregard because no provision prohibited officers from requesting a boater pull to a safe area to conduct a traffic stop. Miss. Dep't of Wildlife, Fisheries, & Parks v. Webb, 248 So. 3d 823, 2017 Miss. App. LEXIS 217 (Miss. Ct. App. 2017), rev'd, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

Circuit court improperly ruled for a family in their action against the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) because it erroneously applied the legal standard for reckless disregard under the Mississippi Torts Claim Act; MDWFP officers possessed the discretion to request that boaters pull out of the hazardous and high-traffic area of a river, and the MDWFP possessed the authority to regulate the boating traffic on the river and the discretion to do so in a safe manner. Miss. Dep't of Wildlife, Fisheries, & Parks v. Webb, 248 So. 3d 823, 2017 Miss. App. LEXIS 217 (Miss. Ct. App. 2017), rev'd, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

CHAPTER 23.

ALCOHOL BOATING SAFETY ACT

§ 59-23-3. Definitions.

JUDICIAL DECISIONS

1. Public waters.

Circuit court improperly ruled for a family in their action against the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) because it erroneously applied the legal standard for reckless disregard under the Mississippi Torts Claim Act; the river constituted a public Mississippi waterway, and the MDWFP possessed both the authority to regulate the boating traffic on the river and the discretion to do so in a safe manner. Miss. Dep't of Wildlife, Fisheries, & Parks v. Webb, 248 So. 3d 823, 2017 Miss. App.

LEXIS 217 (Miss. Ct. App. 2017), rev'd, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

§ 59-23-7. Offenses and penalties.

JUDICIAL DECISIONS

1. Evidence sufficient.

Defendant's conviction for boating under the influence was not against the overwhelming weight of the evidence because defendant's breath-alcohol test showed that his blood-alcohol level was 0.110 – above the 0.08 limit; witness testimony reflected that defendant was drinking beer and taking shots consisting of gelatin mixed with vodka and chilled in small cups prior to the accident; and law-enforcement officers at the scene following the accident observed defendant slurring his speech and noted a strong smell of an intoxicating beverage on defendant's breath. Austin v. State, 176 So. 3d 119, 2015 Miss. App. LEXIS 505 (Miss. Ct. App. 2015).

TITLE 61.

AVIATION

Chapter 3.	Airport Authorities.	61-3-1
Chapter 4.	Mississippi Wayport Authority Act [Repealed].	61-4-1
Chapter 13.	Aircraft for Use of Governor, State Departments and Agencies.	61-13-1
Chapter 19.	Aviation Hazards.	61-19-1

CHAPTER 1.

TRANSPORTATION COMMISSION

§ 61-1-3. Definitions.

JUDICIAL DECISIONS

4. Liability for damages.

Trial court properly granted a limited liability company (LLC) summary judgment in wrongful death beneficiaries' action because the LLC could act only through a pilot since he was its sole member, and the beneficiaries were barred from recovering for the pilot's negligence; if the pilot had survived the crash, he would have been unable to recover from the LLC for his own negligence, and the beneficiaries stood in the pilot's shoes and also could not recover for his negligence. Howarth v. M&H Ventures, LLC, 237 So. 3d 107, 2017 Miss. LEXIS 429 (Miss. 2017).

CHAPTER 3.

AIRPORT AUTHORITIES

Sec.

61-3-3. Definitions.
61-3-5. Creation of municipal airport authority; applicability.
61-3-6. Creation of Jackson Metropolitan Area Airport Authority.
61-3-19. Disposal of airport property.
61-3-21. Operation and use privileges; exemption from taxation.

§ 61-3-3. Definitions.

The following words or terms, whenever used or referred to in this chapter, shall have the following respective meanings unless different meanings clearly appear from the context:

(a) "Airport" means any area of land or water which is used, or intended for use, for the landing and taking off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, or for other appropriate purposes, including buffer areas and areas for airport compatible development, together with all buildings and facilities located thereon.

(b) "Airport-related contracts, leases and other arrangements" means any leases, contracts or other arrangements entered into by an authority in accordance with Section 61-3-21 other than any:

(i) Unrelated contracts, leases and other arrangements, as defined in this section; and

(ii) Leases, contracts or other arrangements related primarily to buffer areas or other such areas for airport compatible development and any buildings or facilities located thereon.

(c) "Airport authority" or "authority" means any airport authority created pursuant to the provisions of this chapter.

(d) "Airport hazard" means any structure, object or natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to such landing or taking off of aircraft.

(e) "Air navigation facility" means any facility other than one owned and operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(f) "Bonds" means any bonds, notes, interim certificates, debentures or similar obligations issued by an authority pursuant to this chapter.

(g) "Governing body" means the official or officials authorized by law to exercise ordinance or other lawmaking powers of a municipality.

(h) "Local government" means any local governmental unit as defined in Section 17-13-5.

(i) "Municipal airport authority" or "municipal authority" means a municipal airport authority created pursuant to the provisions of Section 61-3-5 or 61-3-6.

(j) "Municipality" means any county, supervisors district or supervisors districts, or all that portion of the county lying outside the territorial boundaries of any named city, town or village, and a city, town and village of this state or any state-supported institution of higher learning or any public community or junior college.

(k) "Person" means any individual, firm, partnership, corporation, company, association, joint-stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.

(*l*) "Regional airport authority" or "regional authority" means a regional airport authority created pursuant to the provisions of Section 61-3-7.

(m) "Unrelated contracts, leases and other arrangements" means any lease, contract or other arrangement entered into by the authority in accordance with Section 61-3-21 pursuant to which the current, primary use of the structures, improvements or other facilities erected, installed, constructed or located in connection therewith are substantially unrelated to the support of the following airport-related activities:

(i) The taking off and landing of commercial and private aircraft at the airport or air navigation facility;

(ii) The maintenance or repair of commercial or private aircraft taking off and landing at the airport or air navigation facility;

(iii) The storage, via hanger or otherwise, of commercial or private aircraft taking off and landing at the airport or air navigation facility;

(iv) The shipping or transporting of freight by aircraft at the airport or air navigation facility;

(v) The provision of ground and air transportation services to commercial or private aircraft passengers;

(vi) The supplying of goods, commodities, things, services or facilities primarily:

1. To commercial and private aircraft taking off and landing at the airport or air navigation facility; or

2. Within the airport terminal building to commercial or private aircraft passengers in the process of traveling on such aircraft.

(vii) Any fixed base operator activities providing aviation services at the airport or air navigation facility.

HISTORY: Codes, 1942, § 7545-31; Laws, 1958, ch. 230, § 1; Laws, 1978, ch. 362, § 1; Laws, 1992, ch. 379, § 2; Laws, 1999, ch. 309, § 1; Laws, 2004, ch. 335, § 1; Laws, 2016, ch. 456, § 2, eff from and after July 1, 2016; Laws, 2019, ch. 302, § 1, eff from and after passage (approved March 6, 2019).

Amendment Notes — The 2016 amendment deleted “regional airport authority or municipal” following “means any” in (b); deleted former (f), which defined “clerk” as “the custodian of the official records of a municipality,” and redesignated the remaining subdivisions accordingly; added “or 61-3-6” at the end of (h); and made a minor stylistic change in (j).

The 2019 amendment, effective March 6, 2019, added (b); redesignated former (b) through (k) as (c) through (*l*); and added (m).

§ 61-3-5. Creation of municipal airport authority; applicability.

Any municipality or a state-supported institution of higher learning or a public community or junior college, by resolution, may create a public body, corporate and politic, to be known as a municipal airport authority, which shall be authorized to exercise its functions upon the appointment and qualification of the first commissioners thereof. Upon the adoption of a resolution creating a municipal airport authority, the governing body of the municipality or of the state-supported institution of higher learning or other public community or junior college, pursuant to the resolution, shall appoint five (5) persons as commissioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. Thereafter, each commissioner shall be appointed for a term of five (5) years, except that vacancies occurring otherwise than by the expiration of term shall be filled for the unexpired term in the same manner as the original appointments. This section shall not apply to the airport authority created in Section 61-3-6.

HISTORY: Codes, 1942, § 7545-32; Laws, 1958, ch. 230, § 2; Laws, 1999, ch. 309, § 2; Laws, 2016, ch. 456, § 3, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment added the last sentence.

§ 61-3-6. Creation of Jackson Metropolitan Area Airport Authority.

(1) The Jackson Metropolitan Area Airport Authority is created and established and full power is vested in the authority to manage, control and enforce all necessary and beneficial matters pertaining to the operation of Jackson-Medgar Wiley Evers International Airport and Hawkins Field Airport. The authority shall have the same powers and duties as a municipal airport authority under this chapter and any other laws pertaining to municipal airport authorities except in respect to the sale or disposal of real property prohibited under subsection (5)(a) of this section.

(2) The Jackson Metropolitan Area Airport Authority shall consist of the following nine (9) commissioners:

(a) The Adjutant General of the Mississippi National Guard, or his designee;

(b) The Executive Director of the Mississippi Development Authority, or his designee;

(c) One (1) commissioner appointed by the Mayor of the City of Jackson appointed for an initial term of one (1) year;

(d) One (1) commissioner appointed by the City Council of the City of Jackson appointed for an initial term of two (2) years;

(e) One (1) commissioner appointed by the Board of Supervisors of Madison County appointed for an initial term of three (3) years;

(f) One (1) commissioner appointed by the Board of Supervisors of Rankin County appointed for an initial term of four (4) years;

(g) Two (2) commissioners appointed by the Governor from the City of Jackson appointed for terms of (5) years one of whom shall be the holder of a valid pilot's license or certification issued by the Federal Aviation Administration; and

(h) One (1) commissioner appointed by the Lieutenant Governor from the City of Jackson appointed for a term of five (5) years.

(3) Unless otherwise provided in subsection (2) of this section, commissioners appointed under paragraphs (c) through (h) of subsection (2) of this section shall be persons with at least ten (10) years' experience as a certified public accountant or charter financial analyst, business owners with at least ten (10) years' experience in executive management, persons with at least ten (10) years' experience in the aviation industry, persons with at least ten (10) years' experience in economic development, attorneys with at least ten (10) years' experience in commercial law, construction law or aviation law, persons who have been holders of a pilot's license or certification issued by the Federal Aviation Administration for at least ten (10) years, persons with at least ten (10) years' experience in dealing with public financing transactions, or persons

holding certificates of registration as a professional engineer with at least ten (10) years' experience in the practice of engineering.

(4) After the initial terms, commissioners shall be appointed in the same manner as the original appointment for terms of five (5) years or until their successor is appointed and qualified. Vacancies occurring other than the expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

(5)(a) Upon review and approval by the Federal Aviation Administration (FAA) of the Jackson Metropolitan Area Airport Authority as an eligible airport sponsor and the FAA's review and approval of the issuance of an airport operating certificate under 14 CFR part 139 with respect to the Jackson-Medgar Wiley Evers International Airport, the Jackson Municipal Airport Authority is abolished, and all powers and duties, airport equipment, buildings, facilities, inventories, records, personnel, resources and all other property, real or personal, tangible or intangible, including any pertaining to or generated from revenues of the airport, are transferred to the Jackson Metropolitan Area Airport Authority. The Jackson Metropolitan Area Airport Authority may not, by sale or otherwise, dispose of any real property acquired by transfer in accordance with this paragraph (a) or subsequently acquired by the authority.

(b) Upon the transfer required by paragraph (a) of this subsection, the Jackson Metropolitan Area Airport Authority shall assume all obligations of the Jackson Municipal Airport Authority pertaining to the airport that are in effect at the time of the transfer.

HISTORY: Laws, 2016, ch. 456, § 1, eff from and after July 1, 2016.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (1) by substituting "of this section" for "or this section" at the end. The Joint Committee ratified the correction at its August 5, 2016, meeting.

§ 61-3-19. Disposal of airport property.

(1)(a) Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by Section 61-3-25, an authority may, by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, real or personal, or portion thereof or interest therein, acquired pursuant to this chapter. If Section 29-1-1 is applicable to a sale of real property, the sale shall comply with Section 29-1-1.

(b) If Section 29-1-1 is not applicable, the disposal by sale, lease or otherwise, shall be in accordance with the following procedure. The authority shall find and determine by resolution duly and lawfully adopted and spread upon its minutes that:

(i) The property is no longer needed for authority purposes and is not to be used in the authority's operation;

(ii) There is no state agency, board, commission or any governing authority within the state that has expressed a need or use for the property and the federal government has not expressed a need or use for the property; and

(iii) The use of the property for the purpose for which it is to be sold, leased or otherwise disposed of will promote and foster the development and improvement of the authority or of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof.

(2) After making the determinations, the authority may sell, lease or otherwise dispose of the property in accordance with applicable law and by any of the following methods:

(a) The authority may sell, lease or otherwise dispose of the property if the consideration is not less than the fair market price for the property as determined by averaging the appraisals of two (2) professional property appraisers selected by the authority and approved by the purchaser or lessee. Appraisal fees shall be shared equally by the authority and the purchaser or lessee.

(b) The authority may sell, lease or otherwise dispose of the property to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to lease, sell or otherwise dispose of the property and to accept sealed competitive bids for the sale, lease or disposal of the property. The authority shall thereafter accept bids for the sale, lease or disposal of the property and shall award the sale, lease or disposal to the highest bidder.

(c) The authority may sell and dispose of personal property at public sale for cash to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the authority's intention to sell and dispose of the personal property at public sale for cash. Any public sale for cash may be conducted by or on behalf of the authority. At the public sale for cash, the personal property shall be sold and disposed of to the highest bidder.

(d) The authority may sell and dispose of personal property by use of an Internet web service available to the public, including, but not limited to, an Internet auction website, for cash or irrevocable electronic transfer of funds, to the highest bidder after publishing at least once each week for three (3) consecutive weeks in a public newspaper published in the county in which the property is located, or if no newspaper is published in the county, then in a newspaper having general circulation therein, the following information:

(i) The authority's intention to sell and dispose of the personal property through use of the Internet web service;

(ii) The location on the Internet website where the personal property will be listed; and

(iii) The listing date and closing date of the Internet sale.

At the Internet sale, the personal property shall be sold and disposed of to the highest bidder; provided, all Internet sales shall comply with federal law. In the event that any Internet sale is not concluded for any reason, the authority may relist and sell the personal property by use of the same Internet web service without the public notice set forth in this paragraph.

Notwithstanding anything herein to the contrary, in the case of a sale, lease or disposal of property to another authority, a municipality or an agency of the state or federal government for use and operation as a public airport, the sale, lease or other disposal thereof may be effected in such manner and upon such terms as the commissioners of the authority may deem to be in the best interest of civil aviation.

(3) The authority may lease lands owned by the authority for oil, gas and mineral exploration and development upon the terms and conditions and for consideration as the authority shall deem proper and advisable. However, no oil, gas or mineral lease shall be for a primary term of more than ten (10) years and the lease or leases shall provide for annual rentals of not less than One Dollar ($1.00) per acre and shall provide for royalties of not less than three-sixteenths ($^3/_{16}$) of all oil, gas and other minerals produced, including sulphur. All rentals, royalties or other revenue payable under any lease executed under this section shall be paid to and collected by the authority. The leases shall specifically provide that, in no event, shall any such lease or the exercise of any rights thereunder, interfere with the use of any airport or air navigational facilities for their intended purposes.

HISTORY: Codes, 1942, § 7545-39; Laws, 1958, ch. 230, § 9; Laws, 1984, ch. 370; Laws, 1992, ch. 379, § 7; Laws, 1993, ch. 615, § 14; Laws, 1996, ch. 404, § 4; Laws, 2011, ch. 470, § 1; Laws, 2012, ch. 450, § 3; Laws, 2014, ch. 523, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment, in (2)(d)(ii), deleted "listing" preceding "location", substituted "on" for "of" and "will be listed" for "on the Internet website", and inserted "Internet website where the" preceding "personal property"; in (2)(d)(iii), inserted "listing date and" preceding "closing date", deleted "and time" preceding "of the Internet sale", and added the last sentence of (d).

§ 61-3-21. Operation and use privileges; exemption from taxation.

(1) In connection with the operation of an airport or air navigation facility owned or controlled by an authority, the authority may enter into contracts, leases and other arrangements for terms not to exceed fifty (50) years with any persons:

(a) Granting the privilege of using or improving the airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes;

(b) Conferring the privilege of supplying goods, commodities, things, services or facilities at the airport or air navigation facility; and

(c) Making available services to be furnished by the authority or its agents at the airport or air navigation facility.

In each case the authority may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and which shall be established with due regard to the property and improvements used and the expenses of operation to the authority. In no case shall the public be deprived of its rightful, equal and uniform use of the airport, air navigation facility or portion or facility thereof.

(2) Except as may be limited by the terms and conditions of any grant, loan or agreement authorized by Section 61-3-25, Mississippi Code of 1972, an authority may, by contract, lease or other arrangements, upon a consideration fixed by it, grant to any qualified person for a term not to exceed fifty (50) years, the privilege of operating, as agent of the authority or otherwise, any airport owned or controlled by the authority. However, no person shall be granted any authority to operate an airport other than as a public airport or to enter into any contracts, leases or other arrangements in connection with the operation of the airport which the authority might not have undertaken under subsection (1) of this section.

(3) All airport-related contracts, leases and other arrangements entered into pursuant to this section are deemed to serve a public and governmental purpose as a matter of public necessity; therefore, all airport-related contracts, leases, and other arrangements and all structures, improvements and other facilities erected, installed, constructed or located in connection therewith on an airport or air navigation facility owned or controlled by an authority, or any portion of facility thereof or space therein, shall be free and exempt from all state, county and municipal ad valorem taxes on real property and personal property for so long as may otherwise be lawful, and the charges, rentals and fees received by an authority in connection with airport-related contracts, leases and other arrangements shall be deemed to be in lieu of said taxes.

HISTORY: Codes, 1942, § 7545-41; Laws, 1958, ch. 230, § 11; Laws, 1992, ch. 464, § 1; Laws, 2007, ch. 540, § 1; Laws, 2008, ch. 352, § 1, eff from and after passage (approved Mar. 26, 2008); Laws, 2019, ch. 302, § 2, eff from and after passage (approved March 6, 2019).

Amendment Notes — The 2019 amendment, effective March 6, 2019, in (3), inserted "airport-related" three times, and made minor stylistic changes.

JUDICIAL DECISIONS

ANALYSIS

1. Exemption appropriate
2. Tax exmpetion.

1. Exemption appropriate

Taxpayer was exempt from ad valorem taxes where its lease with the airport indicating that the land would be used for a shopping center and related improvements served a commercial purpose under Miss. Code Ann. § 61-3-21(1) (Rev. 2013), and the shopping center was compatible with the airport. Rankin Cty. Bd. of Supervisors v. Lakeland Income Props., LLC, 241 So. 3d 1279, 2018 Miss. LEXIS 198 (Miss. 2018).

Circuit court erred in refusing to allow the taxpayer to reach back three years given that the exemption under Miss.

Code Ann. § 61-3-21(1) (Rev. 2013) was automatic. Rankin Cty. Bd. of Supervisors v. Lakeland Income Props., LLC, 241 So. 3d 1279, 2018 Miss. LEXIS 198 (Miss. 2018).

2. Tax exmpetion.

Under Miss. Code Ann. § 61-5-11, a municipality may lease airport property only for the statutorily listed purposes, and the attendant tax exemption is automatic from the inception of the lease; at the crux of both Miss. Code Ann. §§ 61-3-21 and 61-5-11 are ad valorem tax exemptions applicable to airport leases, the statutes contain identically worded tax exemptions, and both statutes have identical requirements for what qualifies as a tax exempt lease. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

CHAPTER 4.

MISSISSIPPI WAYPORT AUTHORITY ACT

Sec.
61-4-1 through 61-4-5. Repealed.
61-4-7. Repealed.
61-4-9 through 61-4-13. Repealed.

§§ 61-4-1 through 61-4-5. Repealed.

Repealed by Laws of 2017, ch. 404, § 8, effective July 1, 2017.

§ 61-4-1. [Laws, 1989, ch. 535, § 1, eff from and after passage (approved April 17, 1989).]

§ 61-4-3. [Laws, 1989, ch. 535, § 2, eff from and after passage (approved April 17, 1989).]

§ 61-4-5. [Laws, 1989, ch. 535, § 3, eff from and after passage (approved April 17, 1989).]

Editor's Notes — Former § 61-4-1 provided the short title for former Chapter 4, Title 61

Former § 61-4-3 provided Legislative findings and declarations regarding the creation of the Mississippi Wayport Authority.

Former § 61-4-5 provided definitions of terms used in former Chapter 4, Title 61.

§ 61-4-7. Repealed.

Repealed by Laws of 2017, ch. 402, § 13, effective July 1, 2017.

§ 61-4-7. [Laws, 1989, ch. 535, § 4, eff from and after passage (approved April 17, 1989).]

Editor's Notes — Former § 61-4-7 established the Mississippi Wayport Authority and a Mississippi Wayport Authority Advisory Council.

§§ 61-4-9 through 61-4-13. Repealed.

Repealed by Laws of 2017, ch. 404, § 8 effective July 1, 2017.

§ 61-4-9. [Laws, 1989, ch. 535, § 5, eff from and after passage (approved April 17, 1989).]

§ 61-4-11. [Laws, 1989, ch. 535, § 6, eff from and after passage (approved April 17, 1989).]

§ 61-4-13. [Laws, 1989, ch. 535, § 7, eff from and after passage (approved April 17, 1989).]

Editor's Notes — Former § 61-4-9 related to the submission of a siting proposal for the project.

Former § 61-4-11 enumerated general powers of the Mississippi Wayport Authority.

Former § 61-4-13 related to the construction of former Chapter 4, Title 61.

CHAPTER 5.

ACQUISITION, DISPOSITION AND SUPPORT OF AIRPORT FACILITIES

MUNICIPAL AIRPORT LAW

§ 61-5-9. Disposal of airport property.

JUDICIAL DECISIONS

1. Tax exemption.

Under Miss. Code Ann. § 61-5-11, a municipality may lease airport property only for the statutorily listed purposes and the attendant tax exemption is automatic from the inception of the lease; Miss. Code Ann. § 61-5-9 enables a municipality to lease airport property, and Miss. Code Ann. § 61-5-11 provides the mechanism for doing so, but nothing suggests that a municipality can lease airport land outside the parameters established by § 61-5-11. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

§ 61-5-11. Operation and use privileges; exemption from taxation.

JUDICIAL DECISIONS

1. Exemption.

Taxpayer was entitled to the automatic tax exemption in the statute because it had entered into a lease under the statute, and it also provided unrebutted evidence to the county board of supervisors that the property was being used for commercial purposes. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

Under Miss. Code Ann. § 61-5-11, a municipality may lease airport property only for the statutorily listed purposes, and the attendant tax exemption is automatic from the inception of the lease; at the crux of both Miss. Code Ann. §§ 61-3-21 and 61-5-11 are ad valorem tax exemptions applicable to airport leases, the statutes contain identically worded tax exemptions, and both statutes have identical requirements for what qualifies as a tax exempt lease. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

Under Miss. Code Ann. § 61-5-11, a municipality may lease airport property only for the statutorily listed purposes and the attendant tax exemption is automatic from the inception of the lease; Miss. Code Ann. § 61-5-9 enables a municipality to lease airport property, and Miss. Code Ann. § 61-5-11 provides the mechanism for doing so, but nothing suggests that a municipality can lease airport land outside the parameters established by § 61-5-11. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

Under the statute, a municipality may lease property only for those purposes listed in the statute, and the statutory tax exemption is self operating and automatic. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

While the Legislature did amend the statute, the amendments do not change the supreme court's holding that the statutory exemption is automatic for leased property used for commercial purposes; the amendments merely narrowed what constitutes "airport related activity" going forward, and the holding that the statute creates an automatic exemption was undisturbed by the amendment. G4, LLC v. Pearl River Cty. Bd. of Supervisors, 289 So. 3d 283, 2020 Miss. LEXIS 32 (Miss. 2020).

CHAPTER 11.

OPERATION OF AIRCRAFT; CERTIFICATION AND LICENSING OF PILOTS AND AIRCRAFT

§ 61-11-1. Operation of aircraft in careless manner, while under influence of intoxicating liquor, etc.; hunting or spotting game for purpose of hunting from aircraft.

JUDICIAL DECISIONS

3. Negligence.

Trial court properly granted a limited liability company (LLC) summary judgment in wrongful death beneficiaries' action because the LLC could act only through a pilot since he was its sole member, and the beneficiaries were barred from recovering for the pilot's negligence; if the pilot had survived the crash, he would have been unable to recover from the LLC for his own negligence, and the beneficiaries stood in the pilot's shoes and also could not recover for his negligence. Howarth v. M&H Ventures, LLC, 237 So. 3d 107, 2017 Miss. LEXIS 429 (Miss. 2017).

CHAPTER 13.

AIRCRAFT FOR USE OF GOVERNOR, STATE DEPARTMENTS AND AGENCIES

Sec.
61-13-5. Laws governing purchase of aircraft; Department of Finance and Administration exempt from requirements of Section 27-104-7(2)(f) when purchasing aircraft maintenance, parts, equipment and/or services; selection process of maintenance facility.

§ 61-13-5. Laws governing purchase of aircraft; Department of Finance and Administration exempt from requirements of Section 27-104-7(2)(f) when purchasing aircraft maintenance, parts, equipment and/or services; selection process of maintenance facility

The purchase of aircraft to be used for the purpose in this chapter shall be in compliance with Sections 31-7-1 through 31-7-21. The Department of Finance and Administration is hereby exempt from the requirements of Section 27-104-7(2)(f) when procuring aircraft maintenance, parts, equipment and/or services. It shall be the responsibility of the Executive Director of the Department of Finance and Administration to ensure commercially reasonable practices, including competitive pricing and superb industry maintenance standards. The selection process of maintenance facility shall consider: their capability and experience, the scope of work, the cost, and the length of time the aircraft will be out of service. The process undertaken by the Department of Finance and Administration for procurement of the maintenance facility shall be reported to the Public Procurement Review Board.

HISTORY: Codes, 1942, § 8533-03; Laws, 1966, ch. 562, § 3, eff from and after passage (approved June 17, 1966); Laws, 2019, ch. 329, § 1, eff from and after passage (approved March 15, 2019).

Amendment Notes — The 2019 amendment, effective March 15, 2019, rewrote the section, which read: "All purchases of airplanes, supplies and other necessary equipment for the successful operation of the aforesaid airplanes shall be purchased in strict compliance with Sections 25-1-77, 25-1-85, 25-1-89, and 31-7-1 through 31-7-21, Mississippi Code of 1972."

CHAPTER 19.

AVIATION HAZARDS

Sec.
61-19-1. Marking of certain anemometer towers required; violation.

§ 61-19-1. Marking of certain anemometer towers required; violation.

(1) For purposes of this section, the term anemometer means an instrument for measuring and recording the speed of the wind. For purposes of this section, the term anemometer tower means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

(2) Any anemometer tower that is fifty (50) feet in height above the ground or higher, that is located outside the exterior boundaries of any municipality, and whose appearance is not otherwise mandated by state or federal law shall be marked, painted, flagged, or otherwise constructed to be recognizable in clear air during daylight hours. Any anemometer tower that was erected before July 1, 2011, shall be marked as required in this section within one (1) year after July 1, 2011. Any anemometer tower that is erected on or after July 1, 2011, shall be marked as required in this section at the time it is erected. Marking required under this section includes marking the anemometer tower, guy wires, and accessory facilities as follows:

(a) The top one-third (⅓) of the anemometer tower shall be painted in equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the marked portion of the tower;

(b) Two (2) marker balls shall be attached to and evenly spaced on each of the outside guy wires;

(c) The area surrounding each point where a guy wire is anchored to the ground shall have a contrasting appearance with any surrounding vegetation. If the adjacent land is grazed, the area surrounding the anchor point shall be fenced. For purposes of this section, the term, area surrounding the anchor point, means an area not less than sixty-four (64) square feet whose outer boundary is at least four (4) feet from the anchor point; and

(d) One or more seven-foot safety sleeves shall be placed at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point.

A violation of this section is a misdemeanor.

HISTORY: Laws, 2011, ch. 475, § 1; Laws, 2013, ch. 329, § 1; Laws, 2017, ch. 352, § 1, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment deleted (3), which read: "This section shall stand repealed on July 1, 2017."

TITLE 63.

MOTOR VEHICLES AND TRAFFIC REGULATIONS

Chapter 1. Driver's License. 63-1-1
Chapter 2. Mandatory Use of Safety Seat Belts. 63-2-1
Chapter 3. Traffic Regulations and Rules of the Road. 63-3-1
Chapter 5. Size, Weight and Load. 63-5-1
Chapter 7. Equipment and Identification. 63-7-1
Chapter 9. Traffic Violations Procedure. 63-9-1
Chapter 11. Implied Consent Law. 63-11-1
Chapter 13. Inspection of Motor Vehicles. 63-13-1
Chapter 15. Motor Vehicle Safety — Responsibility. 63-15-1
Chapter 16. Public Safety Verification and Enforcement Act [Repealed effective July 1, 2022]. 63-16-1
Chapter 17. Manufacture, Sales and Distribution. 63-17-1
Chapter 21. Motor Vehicle Titles. 63-21-1
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Chapter 33. Miscellaneous Provisions. 63-33-1

CHAPTER 1.

DRIVER'S LICENSE

Article 1. Driver's License. 63-1-1
Article 5. Commercial Driver's License Act. 63-1-201

ARTICLE 1.

DRIVER'S LICENSE.

Sec.
63-1-5. Requirement of motor vehicle operator's license; types of operator's licenses; penalty for violation of section.
63-1-6. Requirement of motorcycle operator's license; requirement of temporary motorcycle permit.
63-1-6.1. Rented motor scooters may be operated on public roads in or near universities without obtaining motorcycle endorsement under certain circumstances.
63-1-7. Exemption from license requirement.
63-1-8. Authorization to negotiate reciprocal driver's license agreement with the Republic of China (Taiwan).
63-1-9. Persons prohibited from obtaining license; issuance of regular learner's permits, intermediate licenses and driver's licenses.
63-1-13. Driver Services Division; director; technical, professional and clerical assistants.
63-1-16. Department of Public Safety to furnish permanent license kiosk or examiner in each county seat at least one day per month if requested; kiosk equipment signage; Driver Services Division website to include online tutorial videos for use of website and "Wait Anywhere Appointment" program.
63-1-21. Temporary permits; intermediate licenses.

Sec.

63-1-31. Appeal from denial of application for license or temporary permit.
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63-1-53. Notice to accused upon failure to pay fine; notice to Commissioner of Public Safety; authority of commissioner to suspend license without preliminary hearing; notice of suspension; hearing.
63-1-58. License suspensions and restrictions to run consecutively.
63-1-71. Revocation or suspension of driving privilege of person convicted of violation of Uniform Controlled Substance Law or violation of similar law of another jurisdiction; reduction of suspension in hardship cases.
63-1-73. Repealed.

§ 63-1-5. Requirement of motor vehicle operator's license; types of operator's licenses; penalty for violation of section.

(1)(a) No person shall drive or operate a motor vehicle or an autocycle as defined in Section 63-3-103 upon the highways of the State of Mississippi without first securing an operator's license to drive on the highways of the state, unless specifically exempted by Section 63-1-7.

(b) The types of operator's licenses are:

(i) Class R;

(ii) Class D;

(iii) Class A, B or C commercial license governed by Article 5 of this chapter;

(iv) Intermediate license; and

(v) Interlock-restricted license as prescribed in Section 63-11-31.

(2)(a) Every person who makes application for an original license or a renewal license to operate any single vehicle with a gross weight rating of less than twenty-six thousand one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds other than vehicles included in Class C, vehicles which require a special endorsement, or to operate a vehicle as a common carrier by motor vehicle, taxicab, passenger coach, dray, contract carrier or private commercial carrier as defined in Section 27-19-3, other than those vehicles for which a Class A, B or C license is required under Article 5 of this chapter, may, in lieu of the Class R regular driver's license, apply for and obtain a Class D driver's license. The fee for the issuance of a Class D driver's license shall be as set forth in Section 63-1-43 and the Class D license shall be valid for the term prescribed in Section 63-1-47. Except as required under Article 5 of this chapter, no driver of a pickup truck shall be required to have a Class D or a commercial license regardless of the purpose for which the pickup truck is used.

(b) Persons operating vehicles listed in paragraph (a) of this subsection for private purposes or in emergencies need not obtain a Class D license.

(3) An interlock-restricted license allows a person to drive only a motor vehicle equipped with an iginition-interlock device.

(4) A person who violates this section is guilty of a misdemeanor and, upon conviction, may be punished by imprisonment for not less than two (2) days nor more than six (6) months, by a fine of not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00), or both.

HISTORY: Codes, 1942, § 8091; Laws, 1938, ch. 143; Laws, 1985, ch. 376, § 5; Laws, 2011, ch. 468, § 3; Laws, 2014, ch. 424, § 8; Laws, 2015, ch. 406, § 4; Laws, 2016, ch. 503, § 8, eff from and after Oct. 1, 2016.

Amendment Notes — The 2014 amendment added (1), (2), and (3), and redesignated former last undesignated paragraph as (4); in present (1)(a), deleted "other than a motorcycle" following "shall drive or operate a motor vehicle" and substituted "unless specifically" for "except those persons especially."

The 2015 amendment inserted "or an autocycle as defined in Section 63-3-103" in (1)(a).

The 2016 amendment, effective October 1, 2016, deleted "Ignition" and "ignition" preceding "interlock-restricted license" in (1)(b)(v) and (3), and made a related change.

JUDICIAL DECISIONS

1. Charging instruments

Town provided defendant with charging instruments because the two traffic tickets a police officer issued to defendant met the requirements established by Miss. Code Ann. § 63-9-21(3)(c) and complied with Miss. Unif. Cir. & Cty. R. 7.06; in addition, the town supplemented its discovery disclosures and explicitly informed defendant that he was charged with operating a motor vehicle without a valid driver's license and failing to maintain or provide proof of insurance. Caissie v. State, 254 So. 3d 849, 2018 Miss. App. LEXIS 110 (Miss. Ct. App.), cert. denied, 254 So. 3d 170, 2018 Miss. LEXIS 410

(Miss. 2018), cert. denied, — U.S. —, 140 S. Ct. 100, 205 L. Ed. 2d 36, 2019 U.S. LEXIS 4809 (U.S. 2019).

§ 63-1-6. Requirement of motorcycle operator's license; requirement of temporary motorcycle permit.

(1) Unless exempted under Section 63-1-7 or Section 63-1-6.1, no person shall drive or operate a motorcycle, except for an autocycle as defined in Section 63-3-103, upon the highways of the State of Mississippi without first securing an operator's license with a motorcycle endorsement upon it.

(2)(a) A motorcycle endorsement may be issued to any person who holds a valid Mississippi driver's license and meets the other requirements for a motorcycle endorsement contained in this chapter.

(b) Every applicant for a motorcycle endorsement shall first obtain a temporary motorcycle permit, successfully complete the examination provided in Section 63-1-33, and pay the temporary motorcycle permit fee and examination fee prescribed in Section 63-1-43. Applicants for a temporary motorcycle permit shall:

(i) Be at least fifteen (15) years of age;

(ii) Operate a motorcycle only under the direct supervision of a person at least twenty-one (21) years of age who possesses either a valid driver's or operator's license with a motorcycle endorsement or a valid restricted motorcycle operator's license;

(iii) Be prohibited from transporting a passenger on a motorcycle;

(iv) Be prohibited from operating a motorcycle upon any controlled access highway; and

(v) Be prohibited from operating a motorcycle during the hours of 6:00 p.m. through 6:00 a.m.

Temporary motorcycle driving permits shall be valid for the same period of time and may be renewed upon the same conditions as regular learner's permits issued under Section 63-1-21.

HISTORY: Laws, 1985, ch. 376, § 1; Laws, 2014, ch. 424, § 9; Laws, 2015, ch. 406, § 3; Laws, 2015, ch. 464, § 4, eff from and after July 1, 2015.

Joint Legislative Committee Note — Section 3 of Chapter 406, Laws of 2015, effective from and after July 1, 2015 (approved March 23, 2015), amended this section. Section 4 of Chapter 464, Laws of 2015, effective from and after July 1, 2015 (approved April 20, 2015), also amended this section. As set out above, this section reflects the language of Section 4 of Chapter 464, Laws of 2015, which contains language that specifically provides that it supersedes § 63-1-6 as amended by Chapter 406, Laws of 2015.

Editor's Notes. — Executive Order No. 1474, I., issued by Governor Tate Reeves on April 20, 2020, provides as follows:

"I. In order to cope with and respond to the COVID-19 emergency, pursuant to Miss. Code Ann. § 33-15-11(c)(1), the provisions of Miss. Code Ann. §§ 63-1-47, 63-1-6, 63-1-21, 45-9-101, 97-37-7, and 45-35-55 are hereby suspended to the extent necessary to delay the expiration of all valid driver's licenses, learner's permits, intermediate licenses, firearm permits, security guard permits and ID cards set to expire between March

14-2020 and June 30, 2020. Such licenses, permits and ID cards will instead expire on August 3, 2020."

Amendment Notes — The 2014 amendment redesignated the former first and second undesignated paragraphs as (1) and (2)(a); deleted the last undesignated paragraph in its entirety regarding issuance of a restricted motorcycle operator's license; and added (2)(b); in present (1), inserted "Unless excepted under Section 63-1-7," at the beginning of the sentence preceding "no person shall drive", substituted "an" for "either a regular", and deleted the remainder of this subsection, which read ", or a restricted motorcycle operator's license, except those persons especially exempted by Section 63-1-7, Mississippi Code of 1972; provided, however, that any person possessing a valid Mississippi operator's license issued prior to July 1, 1985, may operate a motorcycle upon the highways of this state until such time as said license expires. Upon the expiration of a license issued prior to July 1, 1985, and the payment of One Dollar ($1.00), the applicant for renewal may obtain the necessary motorcycle endorsement without further examination"; in present (2)(a), substituted "a motorcycle" for "such" towards the end of the sentence, inserted "to" following "endorsement may be issued" at the beginning of the sentence, and added an "s" to "requirements."

The first 2015 amendment (ch. 406), inserted "except for an autocycle as defined in Section 63-3-103" in (1).

The second 2015 amendment (ch. 464), inserted "or Section 63-1-6.1" and "except for an autocycle as defined in Section 63-3-103" in (1).

§ 63-1-6.1. Rented motor scooters may be operated on public roads in or near universities without obtaining motorcycle endorsement under certain circumstances.

(1) No person shall be required to secure a driver's license with a motorcycle endorsement upon it while operating a motor scooter as defined in Section 63-3-103 provided that:

(a) The person is not the owner of the motor scooter and is only renting the scooter for a period of time not to exceed forty-eight (48) hours.

(b) The person is operating the motor scooter within the corporate limits of a municipality in which a university campus is located or is immediately adjacent to, or within the limits of, the university's campus.

(c) The person has been issued and has on their person a regular or commercial driver's license issued by the State of Mississippi or the state of their residence.

(2) Any scooter operated on the roads or highways of this state under this section shall not be operated:

(a) At a rate of speed greater than thirty (30) miles per hour;

(b) On a road which has a speed limit greater than thirty-five (35) miles per hour; or

(c) On any road or highway which is prohibited under Section 63-3-210.

HISTORY: Laws, 2015, ch. 464, § 1, eff from and after July 1, 2015.

§ 63-1-7. Exemption from license requirement.

No license issued pursuant to this article shall be required of:

(a) Any person while operating a motor vehicle for military purposes, if the person is a member of the United States Armed Forces or Reserves on active duty, a member of the National Guard on active duty or full-time National Guard duty, a National Guard military technician, or participating in part-time National Guard training.

(b) Any nonresident person who has in his immediate possession a valid license to drive a motor vehicle on the highways of his home state or country, issued to him by the proper authorities of his home state or country, or of any nonresident person whose home state or country does not require the licensing of a person to operate a motor vehicle on the highways but does require him to be duly registered. Such person being eighteen (18) years of age or older may operate a motor vehicle in the state for a period of sixty (60) consecutive days without securing a license. However, any nonresident person operating a motor vehicle in this state shall be subject to all the provisions of this article, except as specified above.

(c) Any person while operating a road roller, road machinery or any farm tractor or implement of husbandry temporarily drawn, moved or propelled on the highways.

(d) Any engineer or motorman using tracks for road or street, though used in the streets.

(e) Any person while operating an electric personal assistive mobility device as defined in Section 63-3-103.

HISTORY: Codes, 1942, § 8092; Laws, 1938, ch. 143; Laws, 1985, ch. 376, § 6; Laws, 1994, ch. 588, § 3; Laws, 2003, ch. 485, § 7; Laws, 2005, ch. 541, § 1; Laws, 2016, ch. 342, § 2, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment inserted “consecutive” in the next-to-last sentence of (b).

JUDICIAL DECISIONS

1. Charging instruments

Town provided defendant with charging instruments because the two traffic tickets a police officer issued to defendant met the requirements established by Miss. Code Ann. § 63-9-21(3)(c) and complied with Miss. Unif. Cir. & Cty. R. 7.06; in addition, the town supplemented its discovery disclosures and explicitly informed defendant that he was charged with operating a motor vehicle without a valid driver's license and failing to maintain or provide proof of insurance. Caissie v. State, 254 So. 3d 849, 2018 Miss. App. LEXIS 110 (Miss. Ct. App.), cert. denied, 254 So. 3d 170, 2018 Miss. LEXIS 410 (Miss. 2018), cert. denied, — U.S. —, 140 S. Ct. 100, 205 L. Ed. 2d 36, 2019 U.S. LEXIS 4809 (U.S. 2019).

§ 63-1-8. Authorization to negotiate reciprocal driver's license agreement with the Republic of China (Taiwan).

The Commissioner of Public Safety is authorized to negotiate a mutual agreement between the Mississippi Department of Public Safety and the Republic of China (Taiwan), through the Ministry of Transportation and Communications represented by the Director General of the Taipei Economic and Cultural Office in Houston, Texas, for reciprocity in issuing driver's licenses to citizens of the State of Mississippi residing in the Republic of China (Taiwan) and to Taiwanese citizens residing in the State of Mississippi. The mutual agreement shall be written and signed by the commissioner and Director General.

HISTORY: Laws, 2014, ch. 438, § 1, eff from and after passage (approved Mar. 26, 2014).

§ 63-1-9. Persons prohibited from obtaining license; issuance of regular learner's permits, intermediate licenses and driver's licenses.

(1) No driver's license, intermediate license or regular learner's permit shall be issued pursuant to this article:

(a) To any person under the age of eighteen (18) years except as provided in this article.

(b) To any person whose license to operate a motor vehicle on the highways of Mississippi has been previously revoked or suspended by this state or any other state or territory of the United States or the District of Columbia, if the revocation or suspension period has not expired.

(c) To any person who is an habitual drunkard or who is addicted to the use of other narcotic drugs.

(d) To any person who would not be able by reason of physical or mental disability to operate a motor vehicle on the highways with safety. However, persons who have one (1) arm or leg, or have arms or legs deformed, and are driving a car provided with mechanical devices whereby the person is able to drive in a safe manner over the highways, if otherwise qualified, shall receive an operator's license the same as other persons. Moreover, deafness shall not be a bar to obtaining a license.

(e) To any person as an operator who has previously been adjudged to be afflicted with and suffering from any mental disability and who has not at time of application been restored to mental competency.

(f) To any unmarried person under the age of eighteen (18) years who does not at the time of application present a diploma or other certificate of high school graduation or a general educational development certificate issued to the person in this state or any other state; or on whose behalf documentation has not been received by the Department of Public Safety from that person or a school official verifying that the person:

(i) Is enrolled and making satisfactory progress in a course leading to a general educational development certificate;

(ii) Is enrolled in school in this state or any other state;

(iii) Is enrolled in a "nonpublic school," as such term is defined in Section 37-13-91(2)(i); or

(iv) Is unable to attend any school program due to circumstances deemed acceptable as set out in Section 63-1-10.

(g) To any person under the age of eighteen (18) years who has been convicted under Section 63-11-30.

(2) All permits and licenses issued on or before July 31, 2009, shall be valid according to the terms upon which issued. From and after August 1, 2009:

(a) A regular learner's permit may be issued to any person who is at least fifteen (15) years of age who otherwise meets the requirements of this article.

(b) An intermediate license may be issued to any person who is at least sixteen (16) years of age who otherwise meets the requirements of this article and who has held a regular learner's permit for at least one (1) year without any conviction under Section 63-11-30 or of a moving violation. Any conviction under Section 63-11-30 or of a moving violation shall restart the one-year requirement for the holding of a regular learner's permit before an applicant can qualify for an intermediate license. An applicant for an intermediate license who was unable to make timely application in 2020 for a regular learner's permit, due to the closure of driver's license offices owing to the Coronavirus Disease 2019 (COVID-19), shall have the period in which he or she was eligible but unable to apply credited toward the one-year requirement for the holding of a regular learner's permit.

(c) A driver's license may be issued to any person who is at least sixteen and one-half (16-1/2) years of age who otherwise meets the requirements of this article and who has held an intermediate license for at least six (6) months without any conviction under Section 63-11-30 or of a moving violation. Any conviction under Section 63-11-30 or of a moving violation shall restart the six-month requirement for the holding of an intermediate license before an applicant can qualify for a driver's license. However, a person who is at least seventeen (17) years of age who has been issued a regular learner's permit and who has never been convicted under Section 63-11-30 or of a moving violation shall not be required to have held an intermediate license. An applicant for a driver's license who was unable to make timely application in 2020 for an intermediate license, due to the closure of driver's license offices owing to the Coronavirus Disease 2019 (COVID-19), shall have the period in which he or she was eligible but unable to apply credited toward the six-month requirement for the holding of an intermediate license.

(d) An applicant for a Mississippi driver's license who, at the time of application, is at least sixteen and one-half (16-1/2) years of age and who has held a valid motor vehicle driver's license issued by another state for at least six (6) months shall not be required to hold a regular learner's permit or an intermediate license before being issued a driver's license.

(3) The commissioner shall ensure that the regular learner's permit, intermediate license and driver's license issued under this article are clear, distinct and easily distinguishable from one another.

HISTORY: Codes, 1942, § 8093; Laws, 1938, ch. 143; Laws, 1985, ch. 376, § 7; Laws, 1994, ch. 588, § 1; Laws, 1995, ch. 540, § 2; Laws, 1996, ch. 527, § 1; Laws, 2000, ch. 624, § 2; Laws, 2009, ch. 488, § 1; Laws, 2014, ch. 424, § 19, eff from and after Oct. 1, 2014; Laws, 2020, ch. 471, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2014 amendment, in (1), (2), and (3), substituted "regular learner's" for "temporary driving"; in (1)(d), deleted ", in the opinion of the commissioner or other person authorized to grant an operator's license," from the first sentence; deleted (1)(e) and redesignated the remaining subsections accordingly.

The 2020 amendment added the last sentence in (2)(b) and (2)(c).

§ 63-1-13. Driver Services Division; director; technical, professional and clerical assistants.

The commissioner is hereby authorized and empowered to appoint a Director of the Driver Services Division who is a qualified elector of the State of Mississippi and who meets the qualifications set by the State Personnel Board for the position. Such director shall execute and furnish a bond in the amount of Ten Thousand Dollars ($10,000.00) with a surety company authorized to do business in this state. The bond shall be conditioned on the faithful performance of his duties and be subject to the approval of the commissioner. The director shall have control and supervision of the Driver Services Division and shall be answerable to the commissioner in the performance of his duties.

The commissioner shall employ such other technical, professional and clerical assistants as may be needed to conduct the work of the division. The commissioner is also authorized to employ a Director of the Driver License Examining Bureau, who meets the qualifications set by the State Personnel Board for the position, and the necessary supervising examiners, who meet the qualifications set by the State Personnel Board for the position, to assist the Director of the Driver License Examining Bureau in the supervision of the license personnel. The commissioner is also authorized to employ the necessary additional personnel to serve and be designated as "license examiners." The commissioner shall employ such other technical, professional and clerical assistants as may be needed to conduct the work of the bureau. However, not later than July 1, 2021, the commissioner shall not employ an active-service Highway Patrol Officer in the bureau.

HISTORY: Codes, 1942, § 8119; Laws, 1938, ch. 143; Laws, 1940, ch. 167; Laws, 1946, ch. 420, § 9; Laws, 1948, ch. 343, § 7; Laws, 1950, ch. 407, § 4; Laws, 1952, ch. 357, § 3; Laws, 1960, ch. 338, § 2; Laws, 1962, ch. 517; Laws, 1973, ch. 410, § 1; Laws, 1989, ch. 482, § 20; Laws, 1995, ch. 421, § 1; Laws, 2001, ch. 548, § 1; Laws, 2002, ch. 326, § 2, eff from and after July 1, 2002; Laws, 2020, ch. 477, § 1, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2020 amendment, effective July 8, 2020, in the first paragraph, added "and who meets the qualifications set by the State Personnel Board for the position" at the end of the first sentence; and in the last paragraph, inserted "who meets the qualifications set by the State Personnel Board for the position" and "who meet the qualifications set by the State Personnel Board for the position" in the second sentence, deleted the former fourth sentence, which read: "The commissioner shall not adopt or enforce any policy or any rule or regulation which prohibits any Highway Patrol officer from being employed and serving in any position in the Driver License Examining Bureau," and added the last sentence.

§ 63-1-16. Department of Public Safety to furnish permanent license kiosk or examiner in each county seat at least one day per month if requested; kiosk equipment signage; Driver Services Division website to include online tutorial videos for use of website and "Wait Anywhere Appointment" program.

(1) The Department of Public Safety shall, upon request of the board of supervisors, furnish either a permanent driver's license kiosk or a license examiner at a location in each county seat for at least one (1) day every month to conduct licensing examinations, road tests and renewals. It is the option of the board of supervisors so requesting to choose either the permanent driver's license kiosk or a license examiner. The county shall furnish the office, heating and cooling, phone service and Internet connectivity at the location for the kiosk or license examiner.

(2) Driver's license kiosks shall be equipped with printers on location at all kiosk locations in the state for the purpose of printing all kiosk documents, cards and other printouts on site.

(3) At each driver's license location in the state, there shall be location signs prominently displayed providing for required information for the various licenses, cards and other services.

(4) On the Driver Services Division's website, there shall be tutorial videos linked to online procedures to help clearly illustrate how to use the website.

(5) On the Driver Services Division's website, the "Wait Anywhere Appointment," or its equivalent or successor program, shall be made available to use for all driver's license locations in the state.

HISTORY: Laws, 2013, ch. 517, § 3, eff from and after July 1, 2013; Laws, 2020, ch. 477, § 2, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2020 amendment, effective July 8, 2020, added (2) through (5).

§ 63-1-19. Application for license; notification of change of address or name by licensee; registration with Selective Service for certain males.

Editor's Notes — The Military Selective Service Act, 50 USCS Appx 451, referred to in this section, was renumbered 50 USCS § 3801 as part of the 2015 editorial reclassification of Title 50 and Title 50 Appendix.

Federal Aspects— Registration in compliance with the requirements of § 3 of the Military Selective Service Act, see 50 USCS § 3801 et seq.

§ 63-1-21. Temporary permits; intermediate licenses.

(1) To obtain a new or original Class R, Class D or intermediate driver's license, every applicant other than a person holding a valid out-of-state license

shall first obtain a regular learner's permit, successfully complete the examination provided for in Section 63-1-33, and pay the regular learner's permit fee and examination fee prescribed in Section 63-1-43.

(2) A regular learner's permit entitles the holder, if the permit is in his immediate possession, to drive a motor vehicle other than a motorcycle on the highways of the State of Mississippi only when accompanied by a licensed operator who is at least twenty-one (21) years of age and who is actually occupying the seat beside the driver. A regular learner's permit may be issued to any applicant who is at least fifteen (15) years of age and shall be valid for a period of two (2) years from the date of issue.

(3)(a) An intermediate license allows unsupervised driving from 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:30 p.m. Friday and Saturday, and allows unsupervised driving any time for a person traveling directly to or from work. At all other times the intermediate licensee must be supervised by a parent, guardian or other person aged twenty-one (21) years or older who holds a valid driver's license under this article and who is actually occupying the seat beside the driver.

(b) The fee for issuance of an intermediate license shall be as prescribed in Section 63-1-43.

HISTORY: Codes, 1942, § 8095; Laws, 1938, ch. 143; Laws, 1956, ch. 378, § 2; Laws, 1964, ch. 454; Laws, 1966, ch. 570, § 1; Laws, 1985, ch. 376, § 2; Laws, 1994, ch. 588, § 6; Laws, 2000, ch. 624, § 3; Laws, 2009, ch. 488, § 3; Laws, 2011, ch. 467, § 1; Laws, 2013, ch. 489, § 3; Laws, 2014, ch. 424, § 10, eff from and after Oct. 1, 2014.

Editor's Notes. — Executive Order No. 1474, I., issued by Governor Tate Reeves on April 20, 2020, provides as follows:

"I. In order to cope with and respond to the COVID-19 emergency, pursuant to Miss. Code Ann. § 33-15-11(c)(1), the provisions of Miss. Code Ann. §§ 63-1-47, 63-1-6, 63-1-21, 45-9-101, 97-37-7, and 45-35-55 are hereby suspended to the extent necessary to delay the expiration of all valid driver's licenses, learner's permits, intermediate licenses, firearm permits, security guard permits and ID cards set to expire between March 14-2020 and June 30, 2020. Such licenses, permits and ID cards will instead expire on August 3, 2020."

Amendment Notes — The 2014 amendment rewrote (1) regarding obtaining certain classes of driver's license; in (2), substituted "regular learner's" for "temporary driving" in two places, "if" for "provided" in the first sentence, "and" for ". A temporary driving permit" at the beginning of the former third sentence; in (3)(b), substituted "as prescribed in Section 63-1-43" for "Five Dollars ($5.00)" at the end of the sentence; deleted (4) and (5) in their entireties regarding ignition-interlock-restricted driver's license and restricted motorcycle operator's license; and made a minor stylistic change.

§ 63-1-25. Imputation of negligence or willful misconduct of driver under seventeen years of age to person signing application for license.

JUDICIAL DECISIONS

1. In general.

Trial court properly granted summary judgment as to a passenger's claims of negligent entrustment against a driver's mother because the passenger's reliance on the driver's past alcohol and marijuana consumption was irrelevant to whether the mother was negligent in entrusting the vehicle to the driver since no issue of material fact existed that alcohol or other substances contributed to accident. the driver was not under the influence at the time of the accident. Garvin v. Tupelo Furniture Mkt., 127 So. 3d 197, 2013 Miss. LEXIS 650 (Miss. 2013).

§ 63-1-31. Appeal from denial of application for license or temporary permit.

When a person is denied a license or any temporary driving permit after filing the proper application, he shall have the right within sixty (60) days thereafter to file a petition, in the county or circuit court in the county wherein the application was filed, praying for a hearing in the matter before the judge of the court in which the application is presented. The judge is hereby vested with jurisdiction to hear such matters forthwith within termtime or during vacation, upon five (5) days' written notice to the officer who refused to issue the license or any temporary driving permit. The hearing shall be conducted at a place as may suit the convenience of the court. On the hearing of the petition, testimony may be taken, and the court shall render judgment in the matter as it deems right and proper under the law and evidence.

HISTORY: Codes, 1942, § 8105; Laws, 1938, ch. 143; Laws, 1985, ch. 376, § 12; Laws, 2016, ch. 503, § 1, eff from and after Oct. 1, 2016.

Amendment Notes — The 2016 amendment substituted "the county or circuit court" for "the county circuit or chancery court" in the first sentence; deleted "or chancellor" following "The judge" in the second sentence; and made minor stylistic changes throughout.

§ 63-1-33. Examination of applicant for license or regular learner's permit; inspection of applicant's automobile; certification of successful completion of driver education and training program at secondary school in lieu of examination; off-duty members of Mississippi Highway Safety Patrol authorized to teach; certification by parent, teacher or guardian of student's motor vehicle operation proficiency in lieu of department's skills test.

(1) Except as otherwise provided under subsections (6) and (7) of this section, it shall be the duty of the license examiner, when application is made for an operator's license or regular learner's permit, to test the applicant's ability to read and understand road signs and to give the required signals as adopted by the National Advisory Committee on Uniform Traffic Control Devices and the American Association of Motor Vehicle Administrators.

(2) Except as otherwise provided under subsections (6) and (7) of this section, the commissioner shall have prepared and administer a test composed of at least ten (10) questions relating to the safe operation of a motor vehicle and testing the applicant's knowledge of the proper operation of a motor vehicle. Every examination shall ensure adequate knowledge on the part of the applicant as to school bus safety requirements.

(3) Prior to the administration of the test, the license examiner shall inspect the horn, lights, brakes, vehicle registration and proof of liability coverage of the motor vehicle which the applicant expects to operate while being tested, and if he finds that any of the aforementioned items are deficient, no license or endorsement shall be issued to the applicant until same have been repaired.

(4) An applicant for a Mississippi driver's license who, at the time of application, holds a valid motor vehicle driver's license issued by another state shall not be required to take a written test.

(5) Except as otherwise provided by Section 63-1-6, when application is made for an original motorcycle endorsement, the applicant shall be required to pass a written test which consists of questions relating to the safe operation of a motorcycle and a skill test similar to the "Motorcycle Operator Skill Test," which is endorsed by the American Association of Motor Vehicle Administrators. The commissioner may exempt any applicant from the skill test if the applicant presents a certificate showing successful completion of a course approved by the commissioner, which includes a similar examination of skills needed in the safe operation of a motorcycle.

(6) The Department of Public Safety shall accept the certification of successful completion of an individual's training in the knowledge and skills needed for the proper and safe operation of a motor vehicle from a driver education and training program at a secondary school that meets the standards of the State Board of Education, in lieu of the department administering the examination of the individual for the purpose of obtaining a driver's license. The school may employ teachers duly certified by the Department of Education to teach in such a program. In addition, off-duty members of the Mississippi Highway Safety Patrol shall be authorized to teach in such a program without having to obtain a teaching certificate from the Department of Education. Instructors will be considered employees of the school, not of the Driver License Examining Bureau. The commissioner and the State Board of Education shall jointly promulgate rules and regulations for the administration of this subsection.

(7) The commissioner shall develop an affidavit whereby a parent, teacher or guardian may certify that he or she has witnessed a student operate a motor vehicle for at least fifty (50) hours and attest to their proficiency in the proper and safe operation of a motor vehicle and the Department of Public Safety shall accept such in lieu of a skills test conducted by the department.

HISTORY: Codes, 1942, § 8100; Laws, 1938, ch. 143; Laws, 1985, ch. 376, § 3; Laws, 1998, ch. 352, § 1; Laws, 1999, ch. 393, § 2; Laws, 2000, ch. 614, § 1; Laws, 2010, ch. 346, § 1; Laws, 2011, ch. 481, § 5; Laws, 2014, ch. 424, § 20; Laws, 2015,

ch. 417, § 5, eff from and after July 1, 2015; Laws, 2020, ch. 477, § 5, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2014 amendment, in (1), substituted "regular learner's" for "temporary driving"; in (3), substituted a comma for "and" following "lights, brakes, inspection certificate"; and inserted "and proof of liability coverage" following "vehicle registration"; in (5), deleted "or a restricted motorcycle operator's license" following "for an original motorcycle endorsement."

The 2015 amendment deleted "inspection certificate" following "horn, lights, brakes" in (3).

The 2020 amendment, effective July 8, 2020, in (1) and (2), substituted "subsections (6) and (7) of this section" for "subsection (6) of this section"; in (6), in the first sentence, substituted "The Department of Public Safety shall accept" for "The Department of Public Safety may accept," and "standards of the State Board of Education" for "standards of the department," and added the second through fourth sentences; and added (7).

§ 63-1-35. Form of license; use of Social Security Number of licensee; photograph of licensee; renewal of license by electronic means; registered sex offender's license to identify licensee as sex offender; designation as veteran on license upon request of honorably discharged veteran; electronic format for license or permit.

(1) The Commissioner of Public Safety shall prescribe the form of license issued pursuant to this article which shall, among other features, include a driver's license number assigned by the Department of Public Safety. A licensee shall list his social security number with the department which shall cross reference the social security number with the driver's license number for purposes of identification. Additionally, each license shall bear a full-face color photograph of the licensee in such form that the license and the photograph cannot be separated. The photograph shall be taken so that one (1) exposure will photograph the applicant and the application simultaneously on the same film. The department shall use a process in the issuance of a license with a color photograph that shall prevent as nearly as possible any alteration, counterfeiting, duplication, reproduction, forging or modification of the license or the superimposition of a photograph without ready detection. The photograph shall be replaced by the department at the time of renewal. Drivers' licenses, including photographs appearing thereon, may be renewed by electronic means according to rules and regulations promulgated by the commissioner in conformity to Section 27-104-33.

(2) The commissioner shall prescribe the form of license issued pursuant to this article to licensees who are not United States citizens and who do not possess a social security number issued by the United States government. The license of such persons shall include a number and/or other identifying features.

(3) Any new, renewal or duplicate driver's license, temporary driving permit, intermediate license or commercial driver's license issued to a person

required to register as a sex offender pursuant to Section 45-33-25 shall bear a designation identifying the licensee or permittee as a sex offender.

(4) The commissioner is authorized to provide the new, renewal or duplicate driver's license, temporary driving permit, intermediate license or commercial driver's license to any honorably discharged veteran as defined in Title 38 of the United States Code, and such license or permit shall exhibit the letters "Vet" or any other mark identifying the person as a veteran. The veteran requesting the "Vet" designation shall present his DD-214 or equivalent document that includes a notation from the State Veterans Affairs Board that the applicant is a veteran.

(5) Not later than July 1, 2021, the commissioner shall develop and implement a driver's license or driving permit in electronic format as an additional option for license or permit holders. Acceptable electronic formats include display of electronic images on a cellular phone or any other type of electronic device.

HISTORY: Codes, 1942, § 8103; Laws, 1938, ch. 143; Laws, 1940, ch. 167; Laws, 1968, ch. 540, § 1; Laws, 1981, ch. 453, § 1; Laws, 1985, ch. 376, § 13; Laws, 1996, ch. 466, § 1; Laws, 2001, ch. 535, § 1; Laws, 2002, ch. 584, § 6; Laws, 2007, ch. 392, § 16; Laws, 2011, ch. 467, § 2; Laws, 2012, ch. 561, § 2, eff from and after passage (approved May 25, 2012); Laws, 2020, ch. 477, § 3, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2020 amendment, effective July 8, 2020, added (5).

§ 63-1-37. Issuance of duplicate license.

If a license or regular learner's permit issued under the provisions of this article is lost or destroyed, the licensee may obtain a duplicate copy by paying the fee prescribed in Section 63-1-43. The license or permit shall be marked "Duplicate."

HISTORY: Codes, 1942, § 8104; Laws, 1938, ch. 143; Laws, 1956, ch. 378, § 4; Laws, 1984, ch. 349; Laws, 1985, ch. 376, § 14 eff from and after July 1, 1985; Laws, 2001, ch. 535, § 2; Laws, 2002, ch. 584, § 1; Laws, 2011, ch. 467, § 3; Laws, 2014, ch. 424, § 11, eff from and after Oct. 1, 2014.

Amendment Notes — The 2014 amendment, in the first undesignated paragraph, substituted "regular learner's" for "temporary driving", "may obtain" for "shall obtain from the commissioner", and "by paying the fee prescribed in Section 63-1-43" for "thereof and shall pay a fee in the amount of Five Dollars ($5.00) plus the applicable photograph fee for the first and each subsequent duplicate copy"; and deleted the second undesignated paragraph in its entirety regarding depositing of fees into State General Fund.

§ 63-1-39. Signatures on license.

No license issued pursuant to this article shall be valid under the provisions of this article until it has been signed by the applicant.

HISTORY: Codes, 1942, § 8101; Laws, 1938, ch. 143; Laws, 1940, ch. 167; Laws,

1985, ch. 376, § 15; Laws, 2015, ch. 436, § 1, eff from and after passage (approved Apr. 13, 2015).

Amendment Notes — The 2015 amendment deleted "in ink" preceding "by the applicant."

§ 63-1-43. Fees for licenses generally.

(1) The commissioner shall charge and collect the following fees:

(a) Fees to which the card stock fee authorized in Section 45-1-21 shall be added:

Class R original or renewal four-year license authorized in Section 63-1-5	$18.00
Class R original or renewal eight-year license authorized in Section 63-1-5	$36.00
Class D original or renewal four-year license authorized in Section 63-1-47	$23.00
Class D original or renewal eight-year license authorized in Section 63-1-47	$46.00
Four-year Identification Card authorized in Section 45-35-7	$11.00
Eight-year Identification Card authorized in Section 45-35-7	$22.00
Eight-year Identification Card for the blind authorized in Section 45-35-7	$11.00
Four-year Disability Identification Card authorized in Section 45-35-53	$11.00
Regular Learner's Permit authorized in Section 63-1-21	$ 1.00
Duplicate Identification Card or Disability Identification Card	$ 5.00
Intermediate license authorized in Section 63-1-21	$ 5.00
Duplicate Class R or Class D license authorized in Section 63-1-37	$ 5.00
Class A, B or C Commercial driver's license authorized in Section 63-1-208	$48.00
CDL Learner's Permit authorized in Section 63-1-208	$10.00
Duplicate CDL or CDL learner's permit	$ 5.00
Ignition-Interlock-Restricted License authorized in Section 63-11-31	$50.00

(b) Driver services fees to which the card stock fee authorized in Section 45-1-21 is not added:

Temporary Motorcycle Permit	$ 1.00
Four-year or eight-year Motorcycle Endorsement	$ 5.00
Late Renewal Fee	$ 1.00
Four-year Identification Card upon medical reason for surrender of a driver's license as authorized in Section 45-35-7 (one (1) time only)	No fee
Hazardous Materials Background Check (federal)	$63.00
Hazardous Materials Background Check (state)	$37.00

CDL Application Fee	$25.00
CDL Endorsements:	
Tanker Endorsement	$ 5.00
Doubles/Triples Endorsement	$ 5.00
Passenger Endorsement	$ 5.00
Hazardous Materials Endorsement	$ 5.00
School Bus Endorsement	$ 5.00

(c) In addition to the fees required in this section, an applicant may contribute an additional One Dollar ($1.00) which shall be deposited into the Statewide Litter Prevention Fund. The applicant shall be informed that he may contribute an additional One Dollar ($1.00) which shall be deposited into the Statewide Litter Prevention Fund and shall be expended solely for the purpose of funding litter prevention projects or litter education programs, as recommended by the Statewide Litter Prevention Program of Keep Mississippi Beautiful, Inc.

(d) Starting January 1, 2021, for any original or renewal license for which the fee is greater than Ten Dollars ($10.00), if the applicant brings all required documentation but does not receive his or her license within two and one-half (2-1/2) hours of entering and remaining at the license station, Ten Dollars ($10.00) shall be deducted from the total amount owed for the license.

(2) All originals and renewals of operators' licenses shall be in compliance with Section 63-1-47.

HISTORY: Codes, 1942, § 8102; Laws, 1938, ch. 143; Laws, 1940, chs. 157, 167; Laws, 1946, ch. 420, § 7; Laws, 1948, ch. 343, § 5; Laws, 1950, ch. 408, § 1; Laws, 1956, ch. 378, § 3; Laws, 1958, ch. 493; Laws, 1962, ch. 523; Laws, 1968, ch. 539, § 1; Laws, 1973, ch. 383, § 1; Laws, 1981, ch. 453, § 2; Laws, 1985, ch. 376, § 4; Laws, 1989, ch. 482, § 23; Laws, 1992, ch. 469, § 1; Laws, 1994, ch. 588, § 8; Laws, 2001, ch. 535, § 3; Laws, 2002, ch. 584, § 5; Laws, 2009, ch. 560, § 30; Laws, 2010, ch. 423, § 1; Laws, 2011, ch. 468, § 2; Laws, 2012, ch. 433, § 1; Laws, 2012, ch. 483, § 1; Laws, 2013, ch. 489, § 4; Laws, 2014, ch. 424, § 12, eff from and after Oct. 1, 2014; Laws, 2020, ch. 477, § 6, eff from and after passage (approved July 8, 2020).

Editor's Notes — Laws of 2014, ch. 512, § 5 provides:

"SECTION 5. The State Fiscal Officer shall transfer all of the funds that are deposited into the Ignition Interlock Device Fund during fiscal year 2015 into the Drug Court Fund. This section shall stand repealed on July 1, 2015."

Amendment Notes — The 2014 amendment rewrote the section to set forth a new fee schedule for permits and licenses.

The 2020 amendment, effective July 8, 2020, added (1)(d).

§ 63-1-46. Fees for reinstatement of license subsequent to suspension, revocation or cancellation generally; disposition of fees; procedure and fees for reinstatement of license suspended for noncompliance with support order.

(1)(a) Except as otherwise provided in this section, a fee of One Hundred

Dollars ($100.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended, revoked or cancelled.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) Twenty-five Dollars ($25.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars ($25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars ($25.00) shall be deposited into the special fund created in Section 63-1-45(3) for purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars ($25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

(2)(a) A fee of One Hundred Seventy-five Dollars ($175.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended or revoked under the provisions of the Mississippi Implied Consent Law.

(b) The funds received under the provisions of this subsection shall be distributed as follows:

(i) One Hundred Dollars ($100.00) shall be deposited into the State General Fund in accordance with Section 45-1-23;

(ii) Twenty-five Dollars ($25.00) shall be paid to the Board of Trustees of the Public Employees' Retirement System for funding the Mississippi Highway Safety Patrol Retirement System as provided under Section 25-13-7;

(iii) Twenty-five Dollars ($25.00) shall be deposited into the special fund created in Section 63-1-45(3) for purchases of equipment by the Mississippi Highway Safety Patrol; and

(iv) Twenty-five Dollars ($25.00) shall be deposited into the Interlock Device Fund created in Section 63-11-33.

(3)(a) A fee of Twenty-five Dollars ($25.00) shall be charged for the reinstatement of a license issued under this article to every person whose license has been validly suspended for nonpayment of child support under the provisions of Sections 93-11-151 through 93-11-163. The funds received under the provisions of this subsection shall be deposited into the State General Fund in accordance with Section 45-1-23.

(b) The procedure for the reinstatement of a license issued under this article that has been suspended for being out of compliance with an order for support, as defined in Section 93-11-153, and the payment of any fees for the reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be.

(4) A fee of Twenty-five Dollars ($25.00) will be charged for the reinstatement of a license that was suspended due to payment by a draft or other instrument that is dishonored by the payor.

(5) All reinstatement fees charged under this section shall be in addition to the fees prescribed in Section 63-1-43.

HISTORY: Laws, 1980, ch. 335; Laws, 1985, ch. 376, § 18; Laws, 1989, ch. 501, § 1; Laws, 1991, ch. 468 § 3; Laws, 1996, ch. 507, § 11; Laws, 2013, ch. 517, § 1; Laws, 2014, ch. 424, § 13; Laws, 2014, ch. 493, § 3, eff from and after July 1, 2014; Laws, 2019, ch. 466, § 33, eff from and after July 1, 2019.

Joint Legislative Committee Note — Section 3 of Chapter 493, Laws of 2014, effective from and after July 1, 2014 (approved April 16, 2014), amended this section. Section 13 of Chapter 424, Laws of 2014, effective from and after October 1, 2014 (approved March 24, 2014), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Editor's Notes — Laws of 2019, ch. 466, § 1 provides:

"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The first 2014 amendment (ch. 424), effective October 1, 2014, added (4); redesignated former (4) as present (3)(b); and in (5), substituted "prescribed" for "provided for application for a driver's license" and made a minor stylistic change.

The second 2014 amendment (ch. 493), effective July 1, 2014, in (1)(b)(iv) and (2)(b)(iv), deleted "Ignition" preceding "Interlock Device Fund" and substituted "Section 63-11-33" for "Section 63-1-43 by Chapter 489, Laws of 2013."

The 2019 amendment deleted "or as a result of a conviction of a violation of the Uniform Controlled Substances Law under the provisions of Section 63-1-71" from the end of (2)(a).

§ 63-1-47. Duration and expiration of licenses; release of applicant's school attendance records to department of public safety; suspension of license of certain students who drop out of school.

(1)(a) Except as otherwise provided in this section, each applicant for an original or renewal Class R or Class D license issued pursuant to this article, who is entitled to issuance of same, shall be issued a four-year license or an eight-year license, at the option of the applicant, which will expire at midnight on the licensee's birthday and may be renewed any time within six (6) months before the expiration of the license upon application and payment of the required fee, unless required to be reexamined.

(b) The term of an intermediate license issued under this article shall be one (1) year.

(c) The term of an ignition-interlock-restricted license issued under this article shall be four (4) years.

(2) Any commercial driver's license issued under Article 5 of this chapter shall be issued for a five-year term to expire at midnight on the licensee's birthday.

(3)(a) All applications by an operator under eighteen (18) years of age must be accompanied by documentation that the applicant is in compliance with the education requirements of Section 63-1-9(1)(g), and the documentation used in establishing compliance must be dated no more than thirty (30) days before the date of application.

(b) All applications by an operator under eighteen (18) years of age, if applicable, must be accompanied by documentation signed and notarized by the parent or guardian of the applicant and the appropriate school official, authorizing the release of the applicant's attendance records to the Department of Public Safety as required under Section 63-1-10.

(c) The commissioner shall suspend the driver's license, intermediate license or regular learner's permit of a student under eighteen (18) years of age who has been reported by the Department of Education as required by Section 63-1-10.1, and shall give notice of the suspension to the licensee as provided in Section 63-1-52(4). A school superintendent or designee may request that the driver's license, intermediate license or regular learner's permit that has been suspended under the provisions of this subsection be reinstated after the student has successfully completed nine (9) weeks of school attendance without an unlawful absence.

(4)(a) Any original or renewal license issued under this chapter to a person who is not a United States citizen shall expire four (4) years from the date of issuance or on the expiration date of the applicant's authorized stay in the United States, whichever is the lesser period of time, and may be renewed, if the person is otherwise qualified to renew the license, within thirty (30) days of expiration. The fee for any such license and for renewal shall be as prescribed in Section 63-1-43.

(b) Any applicant for an original or renewal license under this subsection (4) must present valid documentary evidence documenting that the applicant:

(i) Is a citizen or national of the United States;

(ii) Is an alien lawfully admitted for permanent or temporary residence in the United States;

(iii) Has conditional permanent residence status in the United States;

(iv) Has an approved application for asylum in the United States or has entered into the United States in refugee status;

(v) Has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into or lawful presence in the United States;

(vi) Has a pending application for asylum in the United States;

(vii) Has a pending or approved application for temporary protected status in the United States;

(viii) Has approved deferred-action status;

(ix) Has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent resident status in the United States; or

(x) Has a valid employment authorization card issued by the United States Department of Homeland Security.

(5) For any driver's license issued under this chapter, the Department of Public Safety shall send an email and text message notification of an upcoming driver's license expiration date to the known emails and phone numbers authorized by license holders for such notices not less than thirty (30) days before the expiration date of that license.

HISTORY: Codes, 1942, § 8114; Laws, 1938, ch. 143; Laws, 1940, ch. 167; Laws, 1946, ch. 420, § 8; Laws, 1948, ch. 343, § 6; Laws, 1956, ch. 378, § 5; Laws, 1958, ch. 509; Laws, 1968, ch. 541, § 1; Laws, 1981, ch. 453, § 3; Laws, 1985, ch. 376, § 19; Laws, 1989, ch. 482, § 24; Laws, 1990, ch. 310, § 1; Laws, 1994, ch. 588, § 7; Laws, 2000, ch. 624, § 5; Laws, 2002, ch. 584, § 4; Laws, 2009, ch. 488, § 4; Laws, 2009, ch. 560, § 31; Laws, 2010, ch. 423, § 2; Laws, 2011, ch. 468, § 1; Laws, 2013, ch. 489, § 5; Laws, 2014, ch. 424, § 14, eff from and after Oct. 1, 2014; Laws, 2020, ch. 477, § 7, eff from and after passage (approved July 8, 2020).

Editor's Notes — Executive Order No. 1474, I., issued by Governor Tate Reeves on April 20, 2020, provides as follows:

"I. In order to cope with and respond to the COVID-19 emergency, pursuant to Miss. Code Ann. § 33-15-11(c)(1), the provisions of Miss. Code Ann. §§ 63-1-47, 63-1-6, 63-1-21, 45-9-101, 97-37-7, and 45-35-55 are hereby suspended to the extent necessary to delay the expiration of all valid driver's licenses, learner's permits, intermediate licenses, firearm permits, security guard permits and ID cards set to expire between March 14-2020 and June 30, 2020. Such licenses, permits and ID cards will instead expire on August 3, 2020."

Amendment Notes — The 2014 amendment redesignated former (1) as present (1)(a) and inserted "or renewal Class R or Class D" following "each applicant for an original"; deleted "Except as otherwise provided in this section, all renewal licenses shall be for a four-year period or an eight-year period, at the option of the applicant," from the beginning of former (1)(a); added (1)(b) and (1)(c); in (2), deleted "this" following "commercial driver's license issued under" at the beginning; and substituted "5 of this chapter shall be issued for a five-year term to expire at midnight on the licensee's birthday" for the remainder of this subsection; deleted (3), (4), and (5) and redesignated the remaining subsections accordingly; in present (3)(a), substituted "before" for "prior to" at the end; in present (3)(c), substituted "regular learner's" for "temporary learning" twice; in present (4)(a), substituted "chapter" for "article" and deleted "and who does not possess a social security number issued by the United States government" following "who is not a United States citizen"; in present (4)(b), in the parentheses, substituted "4" for "7"; and deleted former (8) in its entirety regarding the term of an ignition-interlock-restricted driver's license.

The 2020 amendment, effective July 8, 2020, in (1)(c), substituted "ignition-interlock-restricted license" for "iginition-interlock-restricted license"; and added (5).

§ 63-1-49. Renewal of licenses.

(1) An expired license issued pursuant to this article may be renewed at any time within eighteen (18) months after the expiration date of the license upon application and payment of the required fee, and the payment of a delinquent fee prescribed in Section 63-1-43, in lieu of a driver examination, unless the holder of the expired license is required to be examined, or unless the department has reason to believe the licensee is no longer qualified to receive a license.

(2)(a) Any person in the Armed Services of the United States, who holds a valid license issued pursuant to this chapter and is out of state due to military service at the time the license expires, may renew the license by mail or by online renewal services while out of state due to military service or at any time within ninety (90) days after being discharged from military service or upon returning to the state without payment of any delinquent fee or examination, unless the department has reason to believe that the licensee is no longer qualified to receive a license. The person shall make proof by affidavit of the fact of the person's current military service or of the time of discharge or return. The expiration of the license of a military person under the provisions of this paragraph (a) shall not affect the validity of the license, but the license shall continue to be valid and permit the person to operate a motor vehicle in this state for a period of ninety (90) days after discharge from military service or return to the state or until renewal of the license, whichever occurs first.

(b) The provisions of paragraph (a) of this subsection (2) also apply to a dependent of a person in the armed services of the United States who is out of state due to military service if the dependent resides out of state with the armed services member and the license of the dependent expires during the family member's absence from the state. The Commissioner of Public Safety may adopt such rules and regulations under the Administrative Procedures Act as may be necessary to implement the provisions of this paragraph.

(3) Any person holding a valid license issued pursuant to this article who is going overseas for two (2) to four (4) years and whose license will expire during the stay overseas may renew the license for four (4) years or eight (8) years before leaving. The person shall make proof by affidavit of the fact of the overseas travel.

HISTORY: Codes, 1942, §§ 8102, 8114; Laws, 1938, ch. 143; Laws, 1940, chs. 157, 167; Laws, 1946, ch. 420, §§ 7, 8; Laws, 1948, ch. 343, §§ 5, 6; Laws, 1950, ch. 408, § 1; Laws, 1956, ch. 378, §§ 3, 5; Laws, 1958, chs. 493, 509; Laws, 1962, ch. 523; Laws, 1968, ch. 539, § 1; Laws, 1968, ch. 541, § 1; Laws, 1985, ch. 376, § 20; Laws, 1991, ch. 328 § 1; Laws, 1998, ch. 339, § 1; Laws, 2002, ch. 395, § 1; Laws, 2005, ch. 407, § 1; Laws, 2014, ch. 424, § 15, eff from and after Oct. 1, 2014.

Amendment Notes — The 2014 amendment, in (1), in the first sentence, substituted "eighteen (18)" for "twelve (12)", "the" for "said", and "prescribed in Section 63-1-43" for "of One Dollar ($1.00)" and deleted the last sentence in its entirety regarding a new license constituting a renewal of the previous license; in (2)(a), in the first sentence, deleted "such" following "after being discharged from", a comma following "upon returning to the state", and inserted "while out of state due to military service" following "by mail or by online renewal services"; in the last sentence deleted "event first" following "license, whichever", inserted "in this state" following "person to operate a motor vehicle", and "first" following "occurs"; substituted "who holds" for "holding", "chapter" for "article", "is" for "being", "The" for "Such", "the person's current" for "such", "or" for "and", "the" for "such" twice, "discharge" for "he is discharged", and "renewal of the" for "he renews his"; in (2)(b), substituted "the family member's" for "his or her" and inserted "under the Administrative Procedures Act" following "adopt such rules and regulations"; in (3), deleted the last sentence, which read "Such reissuance of a license shall constitute a renewal of the previous license and not a new license."; substituted "will" for "shall", "the" for "said" twice, "before" for "prior to", and "the" for "such", and inserted "or eight (8) years" following "for four (4) years."

§ 63-1-51. Grounds and procedure for revocation of licenses; suspension of license for noncompliance with order for support.

(1) It shall be the duty of the court clerk, upon conviction of any person holding a license issued pursuant to this article where the penalty for a traffic violation is as much as Ten Dollars ($10.00), to mail a copy of abstract of the court record or provide an electronically or computer generated copy of abstract of the court record immediately to the commissioner at Jackson, Mississippi, showing the date of conviction, penalty, etc., so that a record of same may be made by the Department of Public Safety. The commissioner shall forthwith revoke the license of any person for a period of one (1) year upon receiving a duly certified record of each person's convictions of any of the following offenses when such conviction has become final:

(a) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(b) Any felony in the commission of which a motor vehicle is used;

(c) Failure to stop and render aid as required under the laws of this state in event of a motor vehicle accident resulting in the death or personal injury of another;

(d) Perjury or the willful making of a false affidavit or statement under oath to the department under this article or under any other law relating to the ownership or operation of motor vehicles; or

(e) Conviction, or forfeiture of bail not vacated, upon three (3) charges of reckless driving committed within a period of twelve (12) months.

(2) The commissioner shall revoke the license issued pursuant to this article of any person convicted of negligent homicide, in addition to any penalty now provided by law.

(3) In addition to the reasons specified in this section, the commissioner shall be authorized to suspend the license issued to any person pursuant to this article for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this article, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

HISTORY: Codes, 1942, §§ 8106, 8173; Laws, 1938, chs. 143, 200; Laws, 1940, ch. 167; Laws, 1956, ch. 379, § 1; Laws, 1968, ch. 373, § 1; Laws, 1971, ch. 515, § 26; Laws, 1985, ch. 376, § 21; Laws, 1986, ch. 500, § 50; Laws, 1995, ch. 506, § 2; Laws, 1996, ch. 527, § 12; Laws, 2009, ch. 372, § 1, eff from and after passage (approved Mar. 17, 2009); Laws, 2019, ch. 466, § 29, eff from and after July 1, 2019.

Editor's Note — Laws of 2019, ch. 466, § 1 provides:

"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The 2019 amendment deleted (1)(f), which read: "Contempt for failure to pay a fine or fee or to respond to a summons or citation pursuant to a charge of a violation of this title," and made related changes.

§ 63-1-52. Notice by Commissioner of Public Safety to person concerning suspension, cancellation or revocation of person's driver's license or driving privileges.

(1) Whenever the Commissioner of Public Safety suspends, cancels or revokes the driver's license or driving privileges of any person, notice of the suspension, cancellation or revocation shall be given to such person by the commissioner, or his duly authorized agent, in the manner provided in subsection (2) of this section and at the time provided in subsection (3) of this section or in the manner and at the time provided in subsection (4) of this section.

(2) Notice shall be given in the following manner:

(a) In writing, (i) by United States Certificate of Mailing; or (ii) by personal service at the person's address as it appears on the driving record maintained by the Department of Public Safety or at the person's last-known address; or (iii) by personal notice being given by any law enforcement officer of this state or any duly authorized agent of the Commissioner of Public Safety on forms prescribed and furnished by the Commissioner of Public Safety; whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Driver License Compact Law, the Mississippi Implied Consent Law, the Mississippi Motor Vehicle Safety Responsibility Law or subsection (2)(c), (2)(d), (2)(e) or (2)(f) of Section 63-1-53.

(b) In writing, by United States first class mail, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Commercial Driver's License Law, the Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section 63-1-51, subsection (2)(g) or (2)(h) of Section 63-1-53, or Section 63-9-25.

(3) Notice shall be given at the following time:

(a) Before suspension, revocation or cancellation, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Driver License Compact Law, the Mississippi Motor Vehicle Safety Responsibility Law or subsection (2)(c), (2)(d), (2)(e) or (2)(f) of Section 63-1-53.

(b) Unless otherwise specifically provided for by law, at the time of suspension, revocation or cancellation, whenever a person's driver's license or driving privileges are suspended, revoked or cancelled in accordance with the Mississippi Commercial Driver's License Law, the Mississippi Implied Consent Law, the Youth Court Law, Chapter 23 of Title 43, Mississippi Code of 1972, Section 63-1-45, Section 63-1-51, subsection (2)(g) or (2)(h) of Section 63-1-53, or Section 63-9-25.

(4) Whenever the Commissioner of Public Safety suspends, revokes or cancels the driver's license or driving privileges of any person in accordance with some provision of law other than a provision of law referred to in subsections (2) and (3) of this section, and the manner and time for giving notice is not provided for in such law, then notice of such suspension, revocation or cancellation shall be given in the manner and at the time provided for under subsections (2)(b) and (3)(b) of this section.

HISTORY: Laws, 1991, ch. 412, § 1, eff from and after July 1, 1991; Laws, 2019, ch. 466, § 31, eff from and after July 1, 2019.

Editor's Notes — Laws of 2019, ch. 466, § 1 provides:

"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The 2019 amendment substituted "subsection" and "subsections" for "paragraph," and deleted "or (2)(i)" following "(2)(h)" throughout the section; substituted "Certificate of Mailing" for "Certificate of Mail" in (2)(a); and made minor punctuation changes.

§ 63-1-53. Notice to accused upon failure to pay fine; notice to Commissioner of Public Safety; authority of commissioner to suspend license without preliminary hearing; notice of suspension; hearing.

(1) Upon failure of any person to pay timely any fine, fee or assessment levied as a result of any violation of this title, the clerk of the court shall give written notice to such person by United States first-class mail at his last known address advising such person that, if within ninety (90) days after such notice is deposited in the mail, the person has not paid the entire amount of all fines, fees and assessments levied, then the court will pursue collection as for any other delinquent payment, and shall be entitled to collection of all additional fees in accordance with subsection (4) of this section.

(2) The commissioner is hereby authorized to suspend the license of an operator without preliminary hearing upon a showing by his records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction except under the provisions of the Mississippi Implied Consent Law;

(b) Has been involved as a driver in any accident resulting in the death or personal injury of another or serious property damage;

(c) Is an habitually reckless or negligent driver of a motor vehicle;

(d) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(e) Is incompetent to drive a motor vehicle;

(f) Has permitted an unlawful or fraudulent use of such license;

(g) Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation; or

(h) Has committed a violation for which mandatory revocation of license is required upon conviction, entering a plea of nolo contendere to, or adjudication of delinquency, pursuant to the provisions of subsection (1) of Section 63-1-71.

(3) Notice that a person's license is suspended or will be suspended under subsection (2) of this section shall be given by the commissioner in the manner and at the time provided for under Section 63-1-52, and upon such person's request, he shall be afforded an opportunity for a hearing as early as practicable, but not to exceed twenty (20) days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner, or his duly authorized agent, may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the commissioner shall either rescind any order of suspension or, good cause appearing therefor, may extend any suspension of such license or revoke such license.

(4) If a licensee has not paid all cash appearance bonds authorized under Section 99-19-3 or all fines, fees or other assessments levied as a result of a violation of this title within ninety (90) days after receiving notice of the licensee's failure to pay all fines, fees or other assessments as provided in subsection (1) of this section, the court is authorized to pursue collection under Section 21-17-1(6) or 19-3-41(2) as for any other delinquent payment, and shall be entitled to collection of all additional fees authorized under those sections.

HISTORY: Codes, 1942, § 8107; Laws, 1938, ch. 143; Laws, 1956, ch. 379, § 2; Laws, 1971, ch. 515, § 27; Laws, 1986, ch. 500, § 51; Laws, 1991, ch. 403, § 1; Laws, 1991, ch. 468 § 7; Laws, 1991, ch. 615 § 1; Laws, 1993, ch 487, § 1; Laws, 2009, ch. 499, § 1; Laws, 2010, ch. 517, § 1, eff from and after July 1, 2010; Laws, 2019, ch. 466, § 30, eff from and after July 1, 2019.

Editor's Notes — Laws of 2019, ch. 466, § 1 provides:
"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The 2019 amendment, in (1), in the first sentence, deleted "Upon failure of any person to respond timely and properly to a summons or citation charging such person with any violation of this title, or" from the beginning and made a related change, substituted "ninety (90) days" for "ten (10) days," deleted "has not properly responded to the summons or citation or" preceding "has not paid the entire amount," substituted "pursue collection as for any other delinquent payment, and shall be entitled to collection of all additional fees in accordance with subsection (4) of this section" for "give notice thereof to the Commissioner of Public Safety and the commissioner may suspend the driver's license of such person" and deleted the former last two sentences, which related to suspension of driver's license for failure to satisfactorily dispose of the matter pending before the court; deleted (2)(h) and (i), which related to failure to pay a fine and failure to respond to summons, and redesignated former (j) as (h); and substituted "after receiving notice of the licensee's failure to pay all fines, fees or other assessments as provided in subsection (1) of this section" for "after the commissioner has suspended the license of a person under subsection (2) (i) of this section."

§ 63-1-58. License suspensions and restrictions to run consecutively.

Suspension or restriction of driving privileges for any person convicted of or nonadjudicated for violations of the Implied Consent Law or any administrative suspension imposed under this chapter shall run consecutively and not concurrently.

HISTORY: Laws, 2016, ch. 503, § 2, eff from and after Oct. 1, 2016.

§ 63-1-71. Revocation or suspension of driving privilege of person convicted of violation of Uniform Controlled Substance Law or violation of similar law of another jurisdiction; reduction of suspension in hardship cases.

(1) Notwithstanding the provisions of Section 63-11-30(3) and in addition to any penalty authorized by the Uniform Controlled Substances Law or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of driving under the influence of a controlled substance, or entering a plea of nolo contendere thereto, or adjudicated delinquent therefor, in a court of this state, the United States, another state, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, shall forthwith forfeit his right to operate a motor vehicle over the highways of this state for a period of not less than six (6) months. In the case of any person who at the time of the imposition of sentence does not have a driver's license or is less than sixteen (16) years of age, the period of the suspension of driving privileges authorized herein shall commence on the day the sentence is imposed and shall run for a period of not less than six (6) months after the day the person obtains a driver's license or reaches the age of sixteen (16). If the driving privilege of any person is under revocation or suspension at the time of any conviction or adjudication of delinquency for driving under the influence of a controlled substance, the revocation or suspension period imposed herein shall commence as of the date of termination of the existing revocation or suspension.

(2) The court in this state before whom any person is convicted of or adjudicated delinquent for driving under the influence of a controlled substance shall collect forthwith the Mississippi driver's license of the person and forward such license to the Department of Public Safety along with a report indicating the first and last day of the suspension or revocation period imposed pursuant to this section. If the court is for any reason unable to collect the license of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the Commissioner of Public Safety. That report shall include the complete name, address, date of birth, eye color

and sex of the person and shall indicate the first and last day of the suspension or revocation period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or revocation imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in Section 63-11-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of Section 63-11-40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the Commissioner of Public Safety who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's nonresident driving privilege in this state.

(3) The county court or circuit court having jurisdiction, on petition, may reduce the suspension of driving privileges under this section if the suspension would constitute a hardship on the offender. When the petition is filed, such person shall pay to the circuit clerk of the court where the petition is filed a fee of Twenty Dollars ($20.00) for each year, or portion thereof, of license revocation or suspension remaining under the original sentence, which shall be deposited into the State General Fund to the credit of a special fund hereby created in the State Treasury to be used for alcohol or drug abuse treatment and education, upon appropriation by the Legislature. This fee shall be in addition to any other court costs or fees required for the filing of petitions.

HISTORY: Laws, 1991, ch. 468 § 1; Laws, 1993, ch 487, § 2, eff from and after July 1, 1993; Laws, 2019, ch. 466, § 32, eff from and after October 15, 2019.

Editor's Notes — Laws of 2019, ch. 466, § 1 provides:

"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The 2019 amendment, effective October 15, 2019, deleted the former first sentence, which read: "In addition to any penalty authorized by the Uniform Controlled Substances Law or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, every person convicted of, or entering a plea of nolo contendere to, or adjudicated delinquent in a court of this state for a violation of any offense defined in the Uniform Controlled Substances Law, and every person convicted of, or entering a plea of nolo contendere to, or adjudicated delinquent under the laws of the United States, another state, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico of a violation for the use, distribution, possession, manufacture, sale, barter, transfer or dispensing of a 'controlled substance,' 'counterfeit substance,' 'narcotic drug' or 'drug,' as such terms are defined under Section 41-29-105, shall forthwith forfeit his right to operate a motor vehicle over the highways of this state for a period of six (6) months"; in the first sentence, substituted "Section 63-11-30(3)" for "Section 63-11-30(2)(a)," deleted "and every person convicted of driving under the influence of a controlled substance, or entering a plea of nolo contendere thereto, or adjudicated delinquent therefor, in a court of this state, and every person convicted of driving under the influence of a controlled substance, or entering a plea of nolo contendere thereto, or adjudicated delinquent therefor, under the laws of" following "court of this state"; substituted "sixteen (16)" for "fifteen (15)" twice in the second sentence; substituted "driving under the influence of a controlled substance" for "a violation of any offense defined in the Uniform Controlled Substances Law" in the third sentence of (1) and the first sentence of (2); and substituted "suspension" for "denial of which" in the first sentence of (3).

§ 63-1-73. Repealed.

Repealed by Laws of 2015, ch. 326, § 2, effective July 1, 2015.

§ 63-1-73. [Laws, 2009, ch. 488, § 5; Laws, 2011, ch. 481, § 2, eff from and after July 1, 2011.]

Editor's Notes — Former § 63-1-73 prohibited the use of a wireless communication device by persons authorized to drive under intermediate licenses or temporary learning or driving permits while the vehicle is in motion or by a person operating a passenger bus with a minor passenger on the bus, with some exceptions.

For present provisions relating to the prohibition against texting or reading or posting to social media network site while driving, see § 63-33-1.

ARTICLE 5.

COMMERCIAL DRIVER'S LICENSE ACT.

Sec.	
63-1-203.	Definitions.
63-1-208.	Commercial driver's license qualification standards.
63-1-210.	Application for commercial driver's license.
63-1-211.	Commercial driver's license.

§ 63-1-203. Definitions.

As used in this article:

(a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol.

(b) "Alcohol concentration" means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means:

(i) The number of grams of alcohol per one hundred (100) milliliters of blood; or

(ii) The number of grams of alcohol per two hundred ten (210) liters of breath.

(c) "Commercial driver's license" or "CDL" means a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR, Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle.

(d) "Commercial driver's license information system" or "CDLIS" means the CDLIS established by the Federal Motor Carrier Safety Administration (FMCSA) pursuant to Section 12007, of the Commercial Motor Vehicle Safety Act of 1986.

(e) "Commercial learner's permit" means a permit issued pursuant to Section 63-1-208(5).

(f) "Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(i) Has a gross combination weight rating of eleven thousand seven hundred ninety-four (11,794) kilograms or more (twenty-six thousand one (26,001) pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than four thousand five hundred thirty-six (4,536) kilograms (ten thousand (10,000) pounds);

(ii) Has a gross vehicle weight rating of eleven thousand seven hundred ninety-four (11,794) or more kilograms (twenty-six thousand one (26,001) pounds or more);

(iii) Is designed to transport sixteen (16) or more passengers, including the driver;

(iv) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(v) The term shall not include:

1. Authorized emergency vehicles as defined in Section 63-3-103;

2. Motor homes as defined in Section 63-3-103; however, this exemption shall only apply to vehicles used strictly for recreational, noncommercial purposes;

3. Military and commercial equipment owned or operated by the United States Department of Defense, including the National Guard and Mississippi Military Department, and operated by: active duty military personnel; members of the military reserves; members of the National Guard on active duty, including personnel on full-time National Guard duty; personnel on part-time National Guard training; National Guard military technicians (civilians who are required to wear military uniforms); employees of the Mississippi Military Department; and active duty United States Coast Guard personnel. This exception is not applicable to United States Reserve technicians;

4. Farm vehicles, which are vehicles:

a. Controlled and operated by a farmer;

b. Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;

c. Not used in the operations of a common or contract motor carrier; and

d. Used within one hundred fifty (150) miles of the farm.

(g) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 USCS 802(6), and includes all substances listed on Schedules I through V of 21 Code of Federal Regulations, Part 1308, as they may be revised from time to time, any substance so classified under Sections 41-29-113 through 41-29-121, Mississippi Code of 1972, and any other substance which would impair a person's ability to operate a motor vehicle.

(h) "Conviction" means an unvacated adjudication of guilt, or a determination by a judge or hearing officer that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. Conviction shall also mean a plea of guilty or nolo contendere which has been accepted by the court.

(i) "Disqualification" means any of the following three (3) actions:

(i) The suspension, revocation or cancellation of a commercial driver's license by the state or jurisdiction of issuance;

(ii) Any withdrawal of a person's privilege to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight or vehicle defect violations; or

(iii) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 CFR, Part 391.

(j) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle on a public highway or who is required to hold a commercial driver's license.

(k) "Employer" means any person, including the United States, a state, the District of Columbia or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(*l*) "Foreign" means outside the fifty (50) United States and the District of Columbia.

(m) "Gross combination weight rating" or "GCWR" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating will be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load thereon.

(n) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(o) "Hazardous materials" means any material that has been designated as hazardous under 49 USCS Section 5103 and is required to be placarded under subpart F of 49 CFR, Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR, Part 73.

(p) "Imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(q) "Nonresident commercial driver's license" or "nonresident CDL" means a commercial driver's license issued by a state to an individual under either of the following two (2) conditions:

(i) To an individual domiciled in a foreign country meeting the requirements of 49 CFR, Part 383.23(b)(1); or

(ii) To an individual domiciled in another state meeting the requirements of 49 CFR, Part 383.23(b)(2).

(r) "Serious traffic violation" means conviction at any time when operating a commercial motor vehicle or at those times when operating a noncommercial motor vehicle when the conviction results in the revocation, cancellation, or suspension of the operator's license or operating privilege, of:

(i) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the posted speed limit;

(ii) Reckless driving, as defined under state or local law;

(iii) Improper traffic lane changes, as defined in Section 63-3-601, 63-3-603, 63-3-613 or 63-3-803;

(iv) Following the vehicle ahead too closely, as defined in Section 63-3-619;

(v) A violation of any state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(vi) Operating a commercial motor vehicle without obtaining a commercial driver's license;

(vii) Operating a commercial motor vehicle without a commercial driver's license in the driver's possession;

(viii) Operating a commercial motor vehicle without the proper class of commercial driver's license or endorsements, or both.

(s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier operation, is out of service pursuant to 49 CFR, Part 386.72, 392.5, 395.13, 396.9 or compatible laws, or the North American Uniform Out-of-Service Criteria.

(t) "State of domicile" means that state where a person has a true, fixed and permanent home and principal residence and to which the person has the intention of returning whenever the person is absent.

(u) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR, Part 171. However, they do not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(v) "United States" means the fifty (50) states and the District of Columbia.

HISTORY: Laws, 2009, ch. 560, § 3, eff from and after July 1, 2009; Laws, 2019, ch. 311, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, in (f)(v)3, inserted "and commercial," "and Mississippi Military Department" and "employees of the Mississippi Military Department."

§ 63-1-208. Commercial driver's license qualification standards.

(1) Except as otherwise provided, the commissioner shall not issue a commercial driver's license and commercial learner's permit to any person under the age of twenty-one (21) years.

(2) No person may be issued a commercial driver's license unless that person is domiciled in this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulation enumerated in 49 CFR, Part 383, subparts F, G and H and has satisfied all other requirements of Title XII of Public Law 99-570 in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the commissioner. If the applicant wishes to have a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. In addition, the applicant must successfully complete the security threat assessment required by 49 CFR, Part 1572.

(3)(a) Any person who has been certified to provide commercial driver's license testing by the International Driver Examiner Certification (IDEC) program administered by the American Association of Motor Vehicle Administrators (AAMVA) shall, for purposes of this section, be defined as a certified third party examiner (CTPE). In addition, the commissioner shall authorize any person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government, to administer the knowledge and skills test specified by this section, provided:

(i) The test is the same as would otherwise be administered by the state; and

(ii) Either: 1. The third party has entered into an agreement with this state which complies with requirements of 49 CFR, Part 383.75; or

2. The third party is a CTPE as defined in this subsection. The CTPE shall not be a direct employee of a trucking company.

(b) A CTPE performing testing under this section shall not be liable for any claim sounding in tort arising out of such testing.

(4) A skills test may be waived as follows:

(a) The commissioner, by rules adopted pursuant to the Mississippi Administrative Procedures Law, shall provide for a waiver of the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR, Part 383.77;

(b) The rules may establish deadlines by which applicants must claim entitlement and qualification to skills test waivers and may provide for the scheduling of group knowledge testing;

(c) The commissioner shall adopt rules and regulations to carry out the provisions of this subsection (4) as soon as practicable after July 1, 2017, but in any case no later than July 1, 2018.

(5) A commercial learner's permit shall be issued as follows:

(a) A commercial learner's permit may be issued to an individual who holds a valid Mississippi driver's license who has passed the vision and written tests required for the class of license authorizing the operation of the type of vehicle for which the permit application is being made;

(b) The commercial learner's permit shall be issued for a period of six (6) months for the fee prescribed in Section 63-1-43. Only one (1) renewal or reissuance may be granted within a two-year period. The holder of a commercial learner's permit may, unless otherwise disqualified, drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

(6) A commercial driver's license or commercial learner's permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or cancelled in any state. A driver's license may not be issued to a person who has a commercial driver's license issued by any state unless the person first surrenders all driver's licenses issued by any state, which licenses shall be returned to the issuing states for cancellation.

(7) A person shall be entitled to take the test for a commercial driver's license unless the person's driver's license is, at the time of the requested test, suspended, revoked, cancelled or disqualified in any other state.

(8) Notwithstanding any requirement imposed by state law or state or federal regulations restricting the issuance of a commercial driver's license to a person suffering from diabetes, a person suffering from diabetes may be issued a commercial driver's license if the person otherwise meets all qualifications for issuance provided:

(a) The driver is physically examined every year, including an examination by a board-certified/eligible endocrinologist attesting to the fact that the driver is:

(i) Free of insulin reactions (an individual is free of insulin reactions if that individual does not have severe hypoglycemia or hypoglycemia unawareness, and has less than one (1) documented, symptomatic hypoglycemic reaction per month);

(ii) Able to and has demonstrated willingness to properly monitor and manage the person's diabetes; and

(iii) Not likely to suffer any diminution in driving ability due to the person's diabetic condition.

(b) The driver agrees to and complies with the following conditions:

(i) A source of rapidly absorbable glucose shall be carried at all times while driving;

(ii) Blood glucose levels shall be self-monitored one (1) hour prior to driving and at least once every four (4) hours while driving or on duty prior to driving using a portable glucose monitoring device equipped with a computerized memory;

(iii) Submit blood glucose logs to the endocrinologist or medical examiner at the annual examination or when otherwise directed by the Department of Public Safety;

(iv) Provide a copy of the endocrinologist's report to the medical examiner at the time of the annual medical examination; and

(v) Provide a copy of the annual medical certification to the person's employer for retention in the driver's qualification file and retain a copy of the certification on his person while driving for presentation to a duly authorized federal, state or local enforcement official.

(c) The commercial license issued under this subsection (8) will bear an endorsement restricting commercial driving on the license to driving only within the boundaries of Mississippi.

(9) The fees for all licenses, permits, renewals and endorsements shall be as prescribed in Section 63-1-43.

HISTORY: Laws, 2009, ch. 560, § 8; Laws, 2014, ch. 424, § 16; Laws, 2017, ch. 353, § 1, eff from and after July 1, 2017; Laws, 2020, ch. 477, § 8, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2014 amendment, in (5)(a), deleted "from any jurisdiction" following "driver's license" and inserted "Mississippi" following "individual who holds a valid"; in the first sentence of (5)(b), substituted "the" for "a" and "prescribed in Section 63-1-43" for "of Twelve Dollars ($12.00)"; in the first sentence of (6), deleted the comma following "A commercial driver's license"; and added (9).

The 2017 amendment, in (4), substituted "shall provide for a waiver" for "may provide for a waiver" in (a), added (c), and made a related stylistic change.

The 2020 amendment, effective July 8, 2020, rewrote the introductory paragraph of (3), which read: "The commissioner may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, provided" and redesignated it (3)(a); redesignated former (3)(a) as (3)(a)(i); redesignated former (3)(b) as (3)(a)(ii)1 and added "Either" at the beginning and "or" at the end; and added (3)(a)(ii)2 and (3)(b).

§ 63-1-210. Application for commercial driver's license.

(1) The application for a commercial driver's license or commercial learner's permit shall include the following:

(a) The full name and current mailing and residential addresses of the person.

(b) A physical description of the person, including sex, height and weight.

(c) Date of birth.

(d) The applicant's social security number.

(e) The person's signature.

(f) Certifications that:

(i) For an applicant who operates or expects to operate in interstate or foreign commerce or who is otherwise subject to 49 CFR, Part 391, the applicant meets the qualification requirements contained in Part 391; or for an applicant who operates or expects to operate entirely in intrastate commerce and who is not subject to Part 391, that the applicant is subject to state driver qualification requirements and is not subject to Part 391;

(ii) The motor vehicle in which the applicant's skills test will be taken is representative of the type of motor vehicle that the applicant operates or expects to operate;

(iii) The applicant is not subject to any disqualification under 49 CFR, Part 385.51, or any license suspension, revocation, or cancellation under state law; and

(iv) The applicant does not have a driver's license from more than one (1) state or jurisdiction.

(g) Any other information required by the commissioner, including, but not limited to, the names of all states or jurisdictions where the applicant has been licensed to operate any type of motor vehicle during the previous ten (10) years.

(h) The application shall be accompanied by a fee as prescribed in Section 63-1-43.

(2) When a licensee or permittee changes his or her name, mailing address, or residence or in the case of the loss, mutilation, or destruction of a license or permit, the licensee or permittee shall notify the commissioner within sixty (60) days and apply in person for a duplicate license or permit in the same manner as set forth in subsection (1) of this section. The fee for a duplicate license or permit shall be as prescribed in Section 63-1-43.

(3) A person who has been a resident of this state for more than thirty (30) days shall not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(4) Any person who knowingly falsifies information or certifications required under subsection (1) of this section shall have the person's commercial driver's license revoked. Such persons may reapply for a commercial driver's license no sooner than sixty (60) days after the revocation.

(5)(a) Any male who is at least eighteen (18) years of age but less than twenty-six (26) years of age and who applies for or renews a commercial driver's license or renewal of a commercial learner's permit under this article shall be registered in compliance with the requirements of Section 3 of the Military Selective Service Act, 50 USCS Appx. 451 et seq., as amended.

(b) The department shall forward in an electronic format the necessary personal information of the applicant to the Selective Service System. The applicant's submission of the application shall serve as an indication that the applicant either has already registered with the Selective Service System or that he is authorizing the department to forward to the Selective Service System the necessary information for registration. The commissioner shall notify the applicant on, or as a part of, the application that his submission of the application will serve as his consent to registration with the Selective Service System, if so required. The commissioner also shall notify any male applicant under the age of eighteen (18) that he will be registered upon turning age eighteen (18) as required by federal law.

HISTORY: Laws, 2009, ch. 560, § 10; Laws, 2014, ch. 424, § 17, eff from and after Oct. 1, 2014.

Editor's Notes — The Military Selective Service Act, 50 USCS Appx. 451, referred to in this section, was renumbered 50 USCS § 3801 as part of the 2015 editorial reclassification of Title 50 and Title 50 Appendix.

Amendment Notes — The 2014 amendment, in (1)(h), substituted "as prescribed in Section 63-1-43" for "of Twenty-five Dollars ($25.00)"; in (2), deleted "forthwith" following "the licensee or permittee shall"; and inserted "within sixty (60) days" following "notify the commissioner" in the first sentence; and substituted "as prescribed in Section 63-1-43" for "Six Dollars ($6.00)" at the end of the last sentence.

§ 63-1-211. Commercial driver's license.

(1) **Contents of license.** — A commercial driver's license shall be marked "commercial driver's license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include, but not be limited to, the following information:

(a) The name and residential address of the person.

(b) The person's color photograph or imaged likeness.

(c) A physical description of the person including sex, height, and weight.

(d) Date of birth.

(e) Any number or identifier deemed appropriate by the commissioner.

(f) The person's signature.

(g) The class or type of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions.

(h) The name of this state.

(i) The dates between which the license is valid.

(2) **Classifications, endorsements and restrictions.** — Driver's licenses may be issued with the following classifications, endorsements, and restrictions:

(a) **Classifications.** — Licensees may drive all vehicles in the class for which the license is issued and all lesser classes of vehicles, except those requiring special endorsements.

(i) Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand one (26,001) pounds or more, provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds.

(ii) Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand one (26,001) pounds or more, and any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds.

(iii) Class C - Any single vehicle with a gross vehicle weight rating of less than twenty-six thousand one (26,001) pounds:

1. Vehicles designed to transport sixteen (16) or more passengers, including the driver; and

2. Vehicles used in the transportation of hazardous materials as defined in Section 63-1-203.

(iv) Class D - Class D licenses are not commercial driver's licenses and shall be governed by the provisions of Section 63-1-5.

(b) Licenses may be issued with appropriate endorsements and restrictions noted thereon. The commissioner shall determine the manner of notation. Endorsements and restrictions may include, but are not limited to, those which:

(i) Authorize a driver to drive a vehicle transporting hazardous materials;

(ii) Restrict the driver to vehicles not equipped with air brakes when the person either fails the air brake component of the knowledge test or performs the skills test in a vehicle not equipped with air brakes;

(iii) Authorize driving motorcycles that are not autocycles as defined in Section 63-3-103;

(iv) Authorize driving tank vehicles;

(v) Authorize driving vehicles carrying passengers;

(vi) Authorize driving school buses;

(vii) Authorize driving double trailers;

(viii) Restrict the driver to operation solely within this state. A commercial driver's license or commercial learner's permit with this restriction may be issued to any person who has attained the age of eighteen (18) years.

(3) Before issuing a commercial driver's license, the commissioner shall request the applicant's complete operating record from any state in which the applicant was previously licensed to operate any type of motor vehicle in the past ten (10) years, conduct a check of the applicant's operating record by querying the national driver register, established under 49 USCS Section 30302, and the Commercial Driver's License Information System, established under 49 USCS Section 31309, to determine if:

(a) The applicant has already been issued a commercial driver's license; and the applicant's commercial driver's license has been suspended, revoked, or canceled;

(b) The applicant had been convicted of any offenses contained in Section 205(a)(3) of the National Driver Register Act of 1982 (23 USCS Section 401 note).

(4) Within ten (10) days after issuing a commercial driver's license, the commissioner shall notify the Commercial Driver License Information System of that fact, providing all information required to ensure identification of the person.

(5) The commercial driver's license shall expire in the manner set forth in Section 63-1-47.

(6) When applying for renewal of a commercial driver's license, the applicant shall complete the application form required by Section 63-1-210, providing updated information and required certifications. The department shall provide online renewals of a commercial driver's license as long as the renewal meets standards set forth in 49 CFR, Parts 383 and 384. If the applicant wishes to retain a hazardous materials endorsement, the written

test for a hazardous materials endorsement must be taken and passed. In addition, the applicant must successfully complete the security threat assessment required by 49 CFR, Part 1572. If notice is received from the United States Transportation Security Administration that the applicant poses a security risk, the commissioner shall refuse to issue, or revoke within fifteen (15) days of receipt of the notice, a hazardous materials endorsement.

(7) The department shall provide a means for electronic transmission of a medical card and may charge a vendor convenience fee in an amount not to exceed Two Dollars and Fifty Cents ($2.50) per transmission. The department shall upload medical card information to the Commercial Driver License Information System within five (5) days of receiving the updated medical card information. In addition, within twenty-four (24) hours of such upload, the department shall notify the license holder by regular mail or electronically and request that receipt be acknowledged by the license holder. If receipt is not acknowledged by the license holder, the department shall exhaust any available means to contact the license holder.

HISTORY: Laws, 2009, ch. 560, § 11; Laws, 2014, ch. 424, § 18; Laws, 2014, ch. 508, § 1; Laws, 2015, ch. 406, § 5, eff from and after July 1, 2015; Laws, 2020, ch. 477, § 9, eff from and after passage (approved July 8, 2020).

Joint Legislative Committee Note — Section 18 of Chapter 424, Laws of 2014, effective from and after October 1, 2014 (approved March 24, 2014), amended this section. Section 1 of Chapter 508, Laws of 2014, effective from and after passage (approved April 23, 2014), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (c) by substituting "Commercial Driver's License Information System" for "commercial driver's license information system." The Joint Committee ratified the correction at the July 24, 2014, meeting of the Committee.

Amendment Notes — The first 2014 amendment (ch. 424), effective October 1, 2014, in (2)(a)(iv), deleted the first sentence, "Any single vehicle with a gross vehicle weight rating of less than twenty-six thousand one (26,001) pounds or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds except vehicles included in Class C or vehicles which require a special endorsement unless the proper endorsement appears on the license."; and in the second sentence, deleted "be" preceding "commercial driver's license", substituted "are" for "shall", and added "and shall be governed by the provisions of Section 63-1-5" to the end; in (2)(b), deleted the comma following "but are not limited" and inserted a comma after "to" in the last sentence.

The second 2014 amendment (ch. 508), effective April 23, 2014, added (7) and made a minor punctuation change in (2)(b).

The 2015 amendment added "that are not autocycles as defined in Section 63-3-103" at the end of (2)(b)(iii).

The 2020 amendment, effective July 8, 2020, added the second sentence in (6); and added the last three sentences in (7).

CHAPTER 2.

MANDATORY USE OF SAFETY SEAT BELTS

Sec.
63-2-1. Requirement of use of safety seat belt system by operator and passengers in passenger motor vehicle; protection of children.
63-2-7. Offenses and penalties; recording of violations.

§ 63-2-1. Requirement of use of safety seat belt system by operator and passengers in passenger motor vehicle; protection of children.

(1) When a passenger motor vehicle is operated in forward motion on a public road, street or highway within this state, every operator and every passenger shall wear a properly fastened safety seat belt system, required to be installed in the vehicle when manufactured pursuant to Federal Motor Vehicle Safety Standard 208.

(2) "Passenger motor vehicle" for purposes of this chapter means a motor vehicle designed to carry fifteen (15) or fewer passengers, including the driver, but does not include motorcycles that are not autocycles as defined in Section 63-3-103, mopeds, all-terrain vehicles or trailers.

(3) This section shall not apply to:

(a) Vehicles which may be registered for "farm" use, including "implements of husbandry" as defined in Section 63-21-5(d), and "farm tractors" as defined in Section 63-3-105(a);

(b) An operator or passenger possessing a written verification from a licensed physician that he is unable to wear a safety belt system for medical reasons;

(c) A passenger car operated by a rural letter carrier of the United States Postal Service or by a utility meter reader while on duty;

(d) Buses; or

(e) A child who is required to be protected by the use of a child passenger restraint device or system or a belt-positioning booster seat system under the provisions of Sections 63-7-301 through 63-7-311.

HISTORY: Laws, 1990, ch. 436, § 1; Laws, 1998, ch. 501, § 1; Laws, 2008, ch. 520, § 2; Laws, 2015, ch. 406, § 6; Laws, 2017, ch. 403, § 1, eff from and after July 1, 2017.

Editor's Notes — Laws of 2017, ch. 403, § 3, provides:

"SECTION 3. This act shall be known as 'Harlie's Law.' "

Amendment Notes — The 2015 amendment inserted "that are not autocycles as defined in Section 63-3-103" in (2).

The 2017 amendment substituted "every operator and every passenger" for "every operator, every front-seat passenger and every child under seven (7) years of age who is not required to be protected by the use of a child passenger restraint device or system or a belt positioning booster seat system under the provisions of Sections 63-7-301 through 63-7-311, regardless of the seat that the child occupies" in (1); and added (e) and made related stylistic changes.

JUDICIAL DECISIONS

3. Probable cause.

Controlled substances and firearm seized during a traffic stop was properly admitted because a deputy had sufficient reason and probable cause to stop defendant's car when he observed defendant violating the seat belt law; when defendant drove the vehicle without wearing his seat belt he committed a traffic violation, which provided the deputy with probable cause to stop his car. Wallace v. State, — So. 3d —, 2019 Miss. App. LEXIS 170 (Miss. Ct. App. Apr. 23, 2019), cert. denied, 279 So. 3d 1086, 2019 Miss. LEXIS 419 (Miss. 2019), cert. denied, — So. 3d —, 2019 Miss. LEXIS 449 (Miss. 2019).

Stop of defendant's vehicle was not pretextual because the deputy knew the confidential informant and found that person reliable; the deputy testified that he followed defendant before turning on his blue lights and did not see any traffic violations during that span, but he realized that when he was driving by, the driver was not wearing his seatbelt, and that was sufficient for purposes of the original stop. Wallace v. State, — So. 3d —, 2019 Miss. App. LEXIS 170 (Miss. Ct. App. Apr. 23, 2019), cert. denied, 279 So. 3d 1086, 2019 Miss. LEXIS 419 (Miss. 2019), cert. denied, — So. 3d —, 2019 Miss. LEXIS 449 (Miss. 2019).

Denial of defendant's motion to suppress evidence seized at the time of defendant's arrest during a traffic stop was appropriate because a police officer had probable cause to initiate a traffic stop, as the officer noticed that neither the driver of a car, nor defendant, who was a passenger in the car, was wearing a seat belt, and a pouch containing methamphetamine, which the officer discovered in the car after a pouch containing methamphetamine fell out from the bottom of defendant's pants, was in plain view. Nowell v. State, 246 So. 3d 77, 2018 Miss. App. LEXIS 210 (Miss. Ct. App. 2018).

§ 63-2-7. Offenses and penalties; recording of violations.

(1) A violation of this chapter shall be a misdemeanor, punishable by a fine of Twenty-five Dollars ($25.00) upon conviction; however, only the operator of a vehicle may be fined for a violation of this chapter by the operator and any passengers. The maximum fine that may be imposed against the operator of a vehicle for a violation of this chapter by the operator or for a violation of this chapter by one or more passengers shall be Twenty-five Dollars ($25.00) in the aggregate.

(2) A violation of this chapter shall not be entered on the driving record of any individual so convicted, nor shall any state assessment provided for by Section 99-19-73, or any other state law, be imposed or collected.

HISTORY: Laws, 1990, ch. 436, § 4; Laws, 1994, ch. 567, § 1; Laws, 1998, ch. 501, § 2; Laws, 2006, ch. 302, § 1; Laws, 2008, ch. 520, § 3; Laws, 2017, ch. 403, § 2, eff from and after July 1, 2017.

Editor's Notes — Laws of 2017, ch. 403, § 3, provides:

"SECTION 3. This act shall be known as 'Harlie's Law.' "

Amendment Notes — The 2017 amendment substituted "by the operator and any passengers" for "by the operator, for a violation of this chapter by a front seat passenger or for a violation of this chapter by a child who is under seven (7) years of age and who is not required to be protected by the use of a child passenger restraint device or system or a belt positioning booster seat system under the provisions of Sections 63-7-301 through 63-7-311, regardless of the seat that the child occupies" in (1).

CHAPTER 3.

TRAFFIC REGULATIONS AND RULES OF THE ROAD

Article 3. Definitions. 63-3-101
Article 5. Obedience to and Effect of Traffic Laws. 63-3-201
Article 9. Accidents and Reports. 63-3-401
Article 11. Restrictions on Speed; Use of Radar. 63-3-501
Article 13. Driving on Right Side of Roadway: Overtaking and Passing; Following. 63-3-601
Article 17. Right-of-Way. 63-3-801
Article 21. Required Stops. 63-3-1001
Article 23. Pedestrians' Rights and Duties. 63-3-1101

ARTICLE 1.

GENERAL PROVISIONS.

§ 63-3-3. Construction of chapter.

JUDICIAL DECISIONS

1. In general.

Mississippi Transportation Commission and the Mississippi Department of Transportation breached the ministerial duties imposed by Miss. Code Ann. § 65-1-65 because the statute applied to the portion of the highway that was under construction and imposed a ministerial duty of maintenance and repair. Miss. Transp. Comm'n v. Adams, 197 So. 3d 406, 2016 Miss. LEXIS 232 (Miss. 2016).

ARTICLE 3.

DEFINITIONS.

Vehicles, Equipment and the Like Defined. 63-3-103

VEHICLES, EQUIPMENT AND THE LIKE DEFINED

Sec.
63-3-103. Vehicles.

§ 63-3-103. Vehicles.

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

(b) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. The term "motor vehicle" shall not include electric personal assistive mobility devices.

(c) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground but excluding a tractor. The term "motorcycle" includes motor scooters as defined in paragraph (j) of this subsection.

(d) "Authorized emergency vehicle" means every vehicle of the fire department (fire patrol), every police vehicle, every 911 Emergency Communications District vehicle, every such ambulance and special use EMS vehicle as defined in Section 41-59-3, every Mississippi Emergency Management Agency vehicle as is designated or authorized by the Executive Director of MEMA and every emergency vehicle of municipal departments or public service corporations as is designated or authorized by the commission or the chief of police of an incorporated city.

(e) "School bus" means every motor vehicle operated for the transportation of children to or from any school, provided same is plainly marked "School Bus" on the front and rear thereof and meets the requirements of the State Board of Education as authorized under Section 37-41-1.

(f) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle and includes travel trailers, fifth-wheel trailers, camping trailers, truck campers and motor homes.

(g) "Motor home" means a motor vehicle that is designed and constructed primarily to provide temporary living quarters for recreational, camping or travel use.

(h) "Electric assistive mobility device" means a self-balancing two-tandem wheeled device, designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour.

(i) "Autocycle" means a three-wheel motorcycle with a steering wheel, nonstraddle seating, rollover protection and seat belts.

(j) "Motor scooter" means a two-wheeled vehicle that has a seat for the operator, one (1) wheel that is ten (10) inches or more in diameter, a step-through chassis, a motor with a rating of two and seven-tenths (2.7) brake horsepower or less if the motor is an internal combustion engine, an engine of 50cc or less and otherwise meets all safety requirements of motorcycles.

(k) "Platoon" means a group of individual motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would be reasonable and prudent without such coordination.

HISTORY: Codes, 1942, § 8127; Laws, 1938, ch. 200; Laws, 1973, ch. 338, § 1; Laws, 1976, ch. 348; Laws, 1980, ch. 316, § 2; Laws, 1983, ch. 350, § 1; Laws, 1986, ch. 459, § 35; Laws, 2000, ch. 318, § 1; Laws, 2003, ch. 485, § 9; Laws, 2004, ch. 425, § 3; Laws, 2012, ch. 452, § 1; Laws, 2015, ch. 406, § 1; Laws, 2015, ch. 464, § 3, eff from and after July 1, 2015; Laws, 2018, ch. 304, § 1, eff from and after January 1, 2018; Laws, 2018, ch. 445, § 1, eff from and after January 1, 2019.

Joint Legislative Committee Note — Section 1 of Chapter 406, Laws of 2015, effective from and after July 1, 2015 (approved March 23, 2015), amended this section. Section 3 of Chapter 464, Laws of 2015, effective from and after July 1, 2015 (approved

April 20, 2015), also amended this section. As set out above, this section reflects the language of Section 3 of Chapter 464, Laws of 2015, which contains language that specifically provides that it supersedes § 63-1-6 as amended by Chapter 406, Laws of 2015.

Section 1 of Chapter 304, Laws of 2018, effective from and after July 1, 2018 (approved March 5, 2018), amended this section. Section 1 of Chapter 445, Laws of 2018, effective from and after January 1, 2019 (approved April 12, 2018). As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the August 14, 2018, meeting of the Committee.

Amendment Notes — The first 2015 amendment (ch. 406), added (i).

The second 2015 amendment (ch. 464), added the last sentence in (c); added (i) and (j).

The first 2018 amendment (ch. 304) rewrote (i), which read: " 'Autocycle' means a motorcycle with three (3) wheels that is completely enclosed with a roll cage or roll bar, automotive controls and seat belts."

The second 2018 amendment (ch. 445), effective January 1, 2019, added (k).

ARTICLE 5.

OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS.

Sec.
63-3-210. Prohibition of operation of motor scooters rented in accordance with Section 63-1-6.1 on certain roads or highways under certain circumstances.

§ 63-3-205. Applicability of chapter to various public officers and employees.

JUDICIAL DECISIONS

1. In general.

Mississippi Tort Claims Act (MTCA), Miss. Code Ann. § 11-46-9 governs suits against governmental entities, and, therefore, Miss. Code Ann. § 63-3-205 neither controls nor affects a municipality's grant of immunity pursuant to the MTCA; the statutory language of § 63-3-205 is unambiguous and serves as general guidelines for traffic regulations and rules of the road, and the language neither instructs nor implies that § 63-3-205 should be read in conjunction with the provisions of the MTCA. Carothers v. City of Water Valley, 242 So. 3d 138, 2017 Miss. App. LEXIS 281 (Miss. Ct. App. 2017), cert. denied, 246 So. 3d 67, 2018 Miss. LEXIS 206 (Miss. 2018).

Notwithstanding Miss. Code Ann. § 63-3-303, the act giving rise to the injuries in this case was not the placement or maintenance of a traffic-control device – but rather a Department of Transportation (DOT) employee's alleged negligent operation of a pickup truck; because the employee did not fall within the exceptions to Miss. Code Ann. § 63-3-205, and his duty to adhere to applicable traffic regulations was not discretionary, the circuit court erred in finding the DOT immune under Miss. Code Ann. § 11-46-9(1)(d). Mixon v. Miss. DOT, 183 So. 3d 90, 2015 Miss. App. LEXIS 313 (Miss. Ct. App. 2015), cert. denied, 181 So. 3d 1010, 2016 Miss. LEXIS 52 (Miss. 2016).

§ 63-3-210. Prohibition of operation of motor scooters rented in accordance with Section 63-1-6.1 on certain roads or highways under certain circumstances.

(1) The Board of Trustees of State Institutions of Higher Learning may, in accordance with Section 37-105-1, enact rules and regulations that prohibit the operation of motor scooters, which are rented in accordance with Section 63-1-6.1, on certain roads or highways, if the board deems the prohibition to be in the interest of public safety.

(2) The governing board of any municipality may enact rules and regulations that prohibit the operation of motor scooters, which are rented in accordance with Section 63-1-6.1, on certain roads or highways, if the board deems the prohibition to be in the interest of public safety.

HISTORY: Laws, 2015, ch. 464, § 2, eff from and after July 1, 2015.

ARTICLE 7.

TRAFFIC SIGNS, SIGNALS AND MARKINGS.

§ 63-3-303. Placing and maintaining of traffic-control devices upon state and county highways; placement of devices upon such highways by local authorities.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Railroads.

1. In general.

Decisions by the Mississippi Transportation Commission regarding placement of traffic control devices were discretionary for purposes of immunity given Miss. Code Ann. § 63-3-303's assignment of authority and the economic, political, or social concerns associated with installing warning lights or signs at intersections. Smith v. Miss. Transp. Comm'n, 292 So. 3d 231, 2020 Miss. LEXIS 77 (Miss. 2020).

Placement and maintenance of traffic-control devices is discretionary, unless narrower duties encompassed in that function, such as placing and maintaining edge lines, have been rendered ministerial through statute or regulation. Miss. Transp. Comm'n v. Adams, 197 So. 3d 406, 2016 Miss. LEXIS 232 (Miss. 2016).

Trial court did not err in finding that the Mississippi Transportation Commission (MTC) and the Mississippi Department of Transportation (MDOT) were not entitled to discretionary-function immunity under the Mississippi Tort Claims Act because a widow produced evidence that MTC and MDOT breached specific ministerial duties imposed by their duly adopted regulations. Miss. Transp. Comm'n v. Adams, 197 So. 3d 406, 2016 Miss. LEXIS 232 (Miss. 2016).

Notwithstanding Miss. Code Ann. § 63-3-303, the act giving rise to the injuries in this case was not the placement or maintenance of a traffic-control device – but rather a Department of Transportation (DOT) employee's alleged negligent operation of a pickup truck; because the employee did not fall within the exceptions to Miss. Code Ann. § 63-3-205, and his duty to adhere to applicable traffic regulations was not discretionary, the circuit court erred in finding the DOT immune under Miss. Code Ann. § 11-46-9(1)(d). Mixon v. Miss. DOT, 183 So. 3d 90, 2015 Miss. App. LEXIS 313 (Miss. Ct. App. 2015), cert.

denied, 181 So. 3d 1010, 2016 Miss. LEXIS 52 (Miss. 2016).

2. Railroads.

Miss. Code Ann. § 63-3-303 (Rev. 2013) allowed the Mississippi Department of Transportation, in its discretion, to determine the appropriate type, number, and location of traffic-control devices, making it immune from liability for a claim of failure to erect or maintain appropriate and reasonable signs, signals, warning devices, illumination devices, or guardrails and/or barriers despite actual or constructive notice of the absence and/or inadequate condition of the existing devices under Miss. Code Ann. § 11-46-9(1)(d) (Rev. 2012). Ala. Great S. R.R. Co. v. Jobes, 156 So. 3d 871, 2015 Miss. LEXIS 37 (Miss. 2015).

§ 63-3-305. Placing and maintaining of traffic-control devices upon highways under local jurisdiction.

JUDICIAL DECISIONS

5. Liability under statute.

Circuit court erred in granting the motions filed by a county board of supervisors and a city to dismiss a driver's personal injury action based on discretionary-function immunity because the driver alleged a simple act of negligence, where the allegedly tortious act was a construction crew's alleged failure to barricade or warn against the significant drop-off in the road—a condition it created—and not the result of statutory noncompliance or the result of a policy decision. Wilcher v. Lincoln Cty. Bd. of Supervisors, 243 So. 3d 177, 2018 Miss. LEXIS 229 (Miss. 2018).

OPINIONS OF THE ATTORNEY GENERAL

Counties are responsible for the installation and maintenance of necessary warning signs and pavement markings at rail crossings on roads under their jurisdiction subject to approval by the State Highway Commission. Fortier, Mar. 29, 2002, A.G. Op. #02-0109.

ARTICLE 9.

ACCIDENTS AND REPORTS.

Sec.

63-3-425. Duty of driver involved in accident without serious injury or death to move vehicle to designated accident investigation site if possible; violation.

§ 63-3-401. Duties of driver involved in accident resulting in personal injury or death; offenses and penalties.

JUDICIAL DECISIONS

ANALYSIS

1. Indictment — held sufficient.
2. Double jeopardy.
3. Illustrative cases.

1. Indictment — held sufficient.

That an indictment charging appellant with aggravated assault and leaving the scene of the accident did not state the location of the incident and whether the victims were pedestrians did not entitle him to post-conviction collateral relief, because he demonstrated no uncertainty as to these facts during his testimony at his sentencing hearing, and he waived any non-jurisdictional defects in the indictment when he pled guilty. Fox v. State, 129 So. 3d 208, 2013 Miss. App. LEXIS 223 (Miss. Ct. App. 2013), cert. denied, 131 So. 3d 577, 2014 Miss. LEXIS 78 (Miss. 2014).

Indictment charging appellant with leaving the scene of the accident was sufficient and not vague; as it included the phrase "wilfully, unlawfully, and feloniously," it was apparent that he was charged under the felony, not the misdemeanor, portion of Miss. Code Ann. § 63-3-401. Fox v. State, 129 So. 3d 208, 2013 Miss. App. LEXIS 223 (Miss. Ct. App. 2013), cert. denied, 131 So. 3d 577, 2014 Miss. LEXIS 78 (Miss. 2014).

2. Double jeopardy.

Double Jeopardy Clause was not violated because the drunk-driving statute established separate crimes for each of the victims identified and the offense of leaving the scene of an accident contained different elements from the offenses established by the drunk-driving statute. Buckner v. State, 135 So. 3d 915, 2013 Miss. App. LEXIS 682 (Miss. Ct. App. 2013), cert. denied, 136 So. 3d 437, 2014 Miss. LEXIS 201 (Miss. 2014).

3. Illustrative cases.

Trial court did not abuse its discretion in admitting evidence of defendant's prior driving under the influence conviction; the trial court found the evidence was clearly probative as to defendant's motive for leaving the scene of the accident, and any potential prejudice was outweighed by its enormous amount of probative value. Manyfield v. State, 296 So. 3d 240, 2020 Miss. App. LEXIS 319 (Miss. Ct. App. 2020).

Jury could have found that defendant was the driver of the truck when it caused the accident that killed the victim and that defendant left the scene, and thus the evidence supported his convictions; his parents loaned him the truck, his books were found inside, before the accident he was seen at a bar, he had a motive to leave the scene given his recent conviction of driving under the influence and his license suspension, and his DNA also matched the DNA on the truck's driver's side airbag. Manyfield v. State, 296 So. 3d 240, 2020 Miss. App. LEXIS 319 (Miss. Ct. App. 2020).

Evidence supported defendant's conviction for attempting to leave the scene of an accident that resulted in an injury because defendant tried to open the door to a car and get in the car after wrecking a car which defendant had taken in a carjacking. The jury was free to infer that defendant did so with the intent to steal the car and then flee the scene of an auto accident in which another motorist was severely injured, but was frustrated by a locked car door or defendant's own physical condition, not a voluntary abandonment of purpose. Moffett v. State, 287 So. 3d 975, 2019 Miss. App. LEXIS 549 (Miss. Ct. App. 2019).

Defendant, an off-duty police officer, was properly convicted of felony leaving the scene of an accident because, while it was later determined that he was not at fault for a fatal accident with a pedestrian, returned to the scene, and admitted to hitting the pedestrian, more than one witness testified to seeing him leave the scene of the accident for as long as 15 minutes. Snyder v. State, 204 So. 3d 859, 2016 Miss. App. LEXIS 261 (Miss. Ct. App.), cert. denied, 205 So. 3d 1085, 2016 Miss. LEXIS 499 (Miss. 2016).

Evidence was sufficient to convict defendant of the felony of leaving the scene of an accident that resulted in injury or death because, although defendant stated that he assumed that he possibly hit a bird, the jury heard testimony from three witnesses that the victim's bicycle was equipped with a blinking strobe light and an orange medical flag, which sat atop a five-foot-high plastic pole; defendant's collision with the victim not only damaged the right fender of defendant's truck but also broke his passenger-side mirror and tore off the accompanying mirror cover; and defendant called his girlfriend and asked her to call the hospital to see whether any reports had come in regarding someone struck by a vehicle. Brown v.

State, 169 So. 3d 897, 2014 Miss. App. LEXIS 85 (Miss. Ct. App. 2014).

§ 63-3-425. Duty of driver involved in accident without serious injury or death to move vehicle to designated accident investigation site if possible; violation.

(1) If a traffic accident occurs without serious injury or death on a main lane, ramp, shoulder, median, or adjacent area of a highway in this state and each vehicle involved can be normally and safely driven, each operator shall move the operator's vehicle as soon as possible to a designated accident investigation site, if available, a location on the frontage road, the nearest suitable cross-street, or other suitable location to complete the other requirements under the law and minimize interference with highway traffic.

(2) Under this section, a vehicle can be normally and safely driven only if the operator is capable of safely operating the vehicle to move it and only if the vehicle:

(a) Does not require towing; and

(b) Can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway.

(3) For purposes of this section, "serious injury" means an injury that results in the need of an ambulance or other emergency medical transportation being called to the scene of the accident.

(4) Beginning on July 1, 2021, a person who does not comply with the requirements of this section shall be punished in accordance with Section 63-9-11.

(5) The Mississippi Department of Transportation shall determine and erect appropriate signs in appropriate locations throughout the state to inform the public about the new state law provided for in this section.

HISTORY: Laws, 2020, ch. 397, § 1, eff from and after July 1, 2020.

ARTICLE 11.

RESTRICTIONS ON SPEED; USE OF RADAR.

Sec.
63-3-516. Speed limits within highway work zones; penalties for violations.

§ 63-3-516. Speed limits within highway work zones; penalties for violations.

(1) It is unlawful for any person to operate a motor vehicle within a highway work zone at a speed in excess of the maximum speed limit specifically established for the zone whenever workers are present and whenever the zone is indicated by appropriately placed signs displaying the reduced maximum speed limit. Any person violating the provisions of this

section shall be punished, upon conviction, for a first offense by a fine of not more than Two Hundred Fifty Dollars ($250.00); and for second, third and subsequent offenses by a fine of double the maximum fine imposed for second, third or subsequent offenses under Section 63-9-11.

(2) For the purposes of this section the term "highway work zone" means a construction or maintenance area that is located on or along any public highway, road or street within this state that is marked:

(a) By appropriate warning signs or other traffic control devices indicating that work is in progress; and

(b) By signs of a design approved by the Department of Transportation indicating that any person who operates a motor vehicle within a highway work zone at a speed in excess of the reduced maximum speed limit may be punished by a fine of double the maximum amount otherwise authorized by law.

(3) Nothing in this section shall preclude the prosecution or conviction for careless or reckless driving of any motor vehicle operator whose operation of a motor vehicle in a highway work zone, apart from speed, demonstrates the operation of the same in a careless or imprudent manner in violation of Section 63-3-1213 or in a reckless manner in violation of Section 63-3-1201.

(4) Every person who operates any motor vehicle in violation of the provisions of this section and who causes property damage to road construction equipment or a motor vehicle in an amount of Five Hundred Dollars ($500.00) or greater within a highway work zone shall, upon conviction, be guilty of a separate misdemeanor and shall be punished by a fine of not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a term of not less than thirty (30) days nor more than one (1) year, or by both such fine and imprisonment, in the discretion of the court, and the court shall, as a condition of any sentence imposed determine the extent of the property damage caused by the violator and require the violator to make restitution to the injured party upon such terms and conditions determined by the court. Nothing herein however shall prevent the injured party from pursuing any other civil remedies against the violators as allowed by law.

(5) Every person who operates any motor vehicle in violation of the provisions of this section and who causes the death of another within a highway work zone or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another within a highway work zone shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time of not less than three (3) years and not to exceed fifteen (15) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction.

HISTORY: Laws, 1997, ch. 326, § 1; Laws, 2004, ch. 324, § 1, eff from and after July 1, 2004; Laws, 2019, ch. 356, § 2, eff from and after July 1, 2019.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected errors in this section by deleting the paragraph designator "a" following the subsection (4) and (5) designators. Section 2 of Chapter 356, Laws of 2019, amended this section by adding paragraphs designated (a) in subsections (4) and (5) but did not add any other designated paragraphs in the subsections. The Joint Committee ratified the correction at its August 12, 2019, meeting.

Amendment Notes — The 2019 amendment rewrote (3), which read: "Nothing in this section shall preclude the prosecution or conviction for reckless driving of any motor vehicle operator whose operation of a motor vehicle in a highway work zone, apart from speed, demonstrates a reckless disregard for life, limb or property"; and added (4) and (5).

ARTICLE 13.

DRIVING ON RIGHT SIDE OF ROADWAY: OVERTAKING AND PASSING; FOLLOWING.

Sec.

63-3-603. Driving on roadways laned for traffic.
63-3-615. Meeting or overtaking school bus.
63-3-616. Blocking certain lanes of traffic by school bus driver permitted for the purpose of preventing being overtaken when receiving or discharging passengers.
63-3-619. Distances to be maintained between traveling vehicles; inapplicability to operators of nonlead vehicles in a platoon under certain circumstances; requirement for operation of platoon.

§ 63-3-603. Driving on roadways laned for traffic.

(1) Whenever any roadway has been divided into three (3) or more clearly marked lanes for traffic, except through or bypassing a municipality, the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(b) A vehicle shall not be driven in the center lane upon a roadway which is divided into three (3) lanes except when:

(i) Overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance;

(ii) Such vehicle is in preparation for a left turn; or

(iii) Such center lane is at the time allocated exclusively to traffic moving in the direction such vehicle is proceeding and is signposted to give notice of such allocation.

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction, and drivers of vehicles shall obey the directions of every such sign.

(d) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(e) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(2)(a) A vehicle shall not be driven in the outermost left lane of any roadway with two (2) or more lanes allowing for movement of traffic in the same direction except when:

(i) Overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(ii) The right lane(s) of a roadway is closed to traffic while under construction or repair;

(iii) The right lane(s) of the roadway is in disrepair or in an otherwise impassable or unsafe condition; or

(iv) A vehicle is preparing to exit the roadway on the left.

(b) A vehicle shall not be driven continuously in the outermost left lane of a multi-lane roadway whenever it impedes the flow of other traffic.

(c) A violation of this subsection (2) is punishable by a fine of not less than Five Dollars ($5.00) nor more than Fifty Dollars ($50.00).

HISTORY: Codes, 1942, § 8187; Laws, 1938, ch. 200; Laws, 1977, ch. 321, § 1; Laws, 1983, ch. 350, § 3, eff from and after July 1, 1983; Laws, 2018, ch. 360, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment added (2), and designated the previously undesignated first paragraph (1).

§ 63-3-611. Overtaking and passing vehicles on left side of roadway.

JUDICIAL DECISIONS

6. Instructions.

Trial court did not in err when it refused to give a motor vehicle accident victim's peremptory instruction on negligence per se because the question of whether the intersection where the accident occurred as the victim was making a left turn when hit by a passing vehicle was marked or readily distinguishable was left for the jury to determine. McLaughlin v. North Drew Freight, Inc., 249 So. 3d 1081, 2018 Miss. App. LEXIS 291 (Miss. Ct. App. 2018).

§ 63-3-615. Meeting or overtaking school bus.

(1)(a) The driver of a vehicle upon a street or highway upon meeting or overtaking any school bus that has stopped on the street or highway for the purpose of receiving or discharging any school children shall come to a complete stop at least ten (10) feet from the school bus before reaching the school bus when there is in operation on the school bus the flashing red lights provided in Section 63-7-23, or when a retractable, hand-operated stop sign is extended; the driver shall not proceed until the children have crossed the street or highway and the school bus has resumed motion or the flashing red lights are no longer actuated and the hand-operated stop sign is retracted.

(b) The driver of a vehicle upon a divided highway that has four (4) lanes or more and permits at least two (2) lanes of traffic to travel in opposite directions need not stop upon meeting or passing a school bus that is stopped in the opposing roadway, or if the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(2)(a) Except as provided in paragraph (b), any person violating the provisions of subsection (1) of this section shall be guilty of a misdemeanor and upon a first conviction thereof shall be fined not less than Three Hundred Fifty Dollars ($350.00) nor more than Seven Hundred Fifty Dollars ($750.00), or imprisoned for not more than one (1) year, or both. For a second or subsequent offense, the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Seven Hundred Fifty Dollars ($750.00) nor more than One Thousand Five Hundred Dollars ($1,500.00), or imprisoned for not more than one (1) year, or both. In addition, the Commissioner of Public Safety or his duly authorized designee, after conviction for a second or subsequent offense and upon receipt of the court abstract, shall suspend the driver's license and driving privileges of the person for a period of ninety (90) days.

(b) A conviction under this section for a violation resulting in any injury to a child who is in the process of boarding or exiting a school bus shall be a violation of Section 97-3-7, and a violator shall be punished under subsection (2) of that section.

(3) This section shall be applicable only in the event the school bus shall bear upon the front and rear thereon a plainly visible sign containing the words "school bus" in letters not less than four (4) inches in height.

(4) If any person witnesses the driver of any vehicle violating the provisions of this section and the identity of the driver of the vehicle is not otherwise apparent, it shall be a rebuttable inference that the person in whose name the vehicle is registered committed the violation. If charges are filed against multiple owners of a motor vehicle, only one (1) of the owners may be convicted and court costs may be assessed against only one (1) of the owners. If the vehicle that is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person

at the time of the violation, the rental or leasing company may rebut the inference of guilt by providing the law enforcement officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation.

HISTORY: Codes, 1942, § 8226; Laws, 1938, ch. 200; Laws, 1946, ch. 341; Laws, 1946, ch. 420, § 10; Laws, 1974, ch. 304; Laws, 1986, ch. 368; Laws, 2011, ch. 481, § 1; Laws, 2016, ch. 340, § 1, eff from and after July 1, 2016; Laws, 2019, ch. 352, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2016 amendment rewrote (1)(b), which read: "The driver of a vehicle upon a highway that has four (4) lanes or more, whether or not there is a median or turn lane, need not stop upon meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway if the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway."

The 2019 amendment substituted "If any person witnesses the driver of any vehicle violating the provisions of this section" for "If the driver of any vehicle is witnessed by a law enforcement officer or the driver of a school bus to have violated this section" in (4).

§ 63-3-616. Blocking certain lanes of traffic by school bus driver permitted for the purpose of preventing being overtaken when receiving or discharging passengers.

A school bus driver, for the purpose of preventing being overtaken when receiving or discharging any school children, may stop on a street or highway blocking the two (2) outermost right lanes, regardless of the number of lanes on the street or highway. For a two-lane street or highway, this provision allows for blocking both lanes. Such school bus driver may only block both of these lanes during the time that the school bus is receiving or discharging any school children.

HISTORY: Laws, 2019, ch. 352, § 2, eff from and after July 1, 2019.

§ 63-3-619. Distances to be maintained between traveling vehicles; inapplicability to operators of nonlead vehicles in a platoon under certain circumstances; requirement for operation of platoon.

(1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(2) The driver of any motor truck or motor truck drawing another vehicle when traveling upon a roadway outside of a business or residence district shall not follow within three hundred (300) feet of another motor truck or motor truck drawing another vehicle. The provisions of this subsection shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks.

(3)(a) Subject to the provisions of paragraph (b) of this subsection, subsections (1) and (2) of this section shall not apply to the operator of a nonlead vehicle in a platoon, as defined in Section 63-3-103(k), as long as the platoon is operating on a limited access divided highway with more than one (1) lane in each direction and the platoon consists of not more than two (2) motor vehicles.

(b) A platoon may be operated in this state only after an operator files a plan for approval of general platoon operations with the Department of Transportation. If that department approves the submission, it shall forward the plan to the Department of Public Safety for approval. The plan shall be reviewed and either approved or disapproved by the Department of Transportation and the Department of Public Safety within thirty (30) days after it is filed. If approved by both departments, the operator shall be allowed to operate the platoon five (5) working days after plan approval. The Motor Carrier Division of the Department of Public Safety shall develop the acceptable standards required for each portion of the plan.

HISTORY: Codes, 1942, § 8188; Laws, 1938, ch. 200; Laws, 1962, ch. 525, eff from and after passage (approved April 25, 1962); Laws, 2018, ch. 445, § 2, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, added (3), and inserted "(300)" in (2).

JUDICIAL DECISIONS

ANALYSIS

1.5. Constitutionality.
2. Negligence.
5. Instructions.
7. Sufficiency of evidence.

1.5. Constitutionality.

Tailgating statute is not impermissibly vague and does not fail to give a driver notice of the prohibited conduct; the statute, coupled with the rules of the road, is sufficiently definite such that an ordinary person can understand the prohibited conduct and that law enforcement can avoid arbitrary enforcement. The statute is sufficiently specific to pass constitutional scrutiny. Nolan v. State, 182 So. 3d 484, 2016 Miss. App. LEXIS 21 (Miss. Ct. App. 2016).

2. Negligence.

Trial court did not err in failing to find that a police officer committed a traffic violation by tailgating a driver's vehicle because the driver had to show more than mere negligence to establish reckless disregard and remove a city's immunity; the statute applies to traffic regulations but does not address governmental immunity. Carothers v. City of Water Valley, 242 So. 3d 138, 2017 Miss. App. LEXIS 281 (Miss. Ct. App. 2017), cert. denied, 246 So. 3d 67, 2018 Miss. LEXIS 206 (Miss. 2018).

5. Instructions.

Jury was clearly instructed on Miss. Code Ann. §§ 63-3-809(1), 63-3-619(2), and as they fairly announced the applicable law in this wrongful death case, the circuit court did not abuse its discretion in denying appellant's proposed instruction. Rushing v. Mobile Forest Prods., 282 So. 3d 708, 2019 Miss. App. LEXIS 370 (Miss. Ct. App. 2019).

7. Sufficiency of evidence.

Evidence was sufficient to support a tailgating conviction under this statute because an officer was able to articulate an objective basis for the stop by stating that defendant's vehicle was following another vehicle more closely than was reasonable and prudent, and defendant admitted that he was following a business associate's car too closely to a hotel because he was unfamiliar with the area and did not want to get separated. The conviction was not against the manifest weight of the evidence either. Nolan v. State, 182 So. 3d 484, 2016 Miss. App. LEXIS 21 (Miss. Ct. App. 2016).

Evidence was sufficient to support defendant's conviction for following too closely where the officer testified that defendant was traveling at about 50 miles per hour, there was only one car length between her and the car in front of her, she was tapping her brakes, and she was operating her vehicle under the influence of intoxicating liquor. Robinette v. State, 189 So. 3d 675, 2015 Miss. App. LEXIS 593 (Miss. Ct. App. 2015).

ARTICLE 15.

STARTING AND TURNING; SIGNALING.

§ 63-3-707. Requirements as to signalling of turns or stops.

JUDICIAL DECISIONS

5. Searches and seizures.

In a felony fleeing case, an argument that an officer lacked probable cause to make a traffic stop was rejected because the officer testified that he personally observed defendant make a right turn onto a state highway without signaling while traffic was present. Moreover, defendant admitted to committing the offense. Johnson v. State, 228 So. 3d 933, 2017 Miss. App. LEXIS 112 (Miss. Ct. App.), cert. denied, 229 So. 3d 120, 2017 Miss. LEXIS 379 (Miss. 2017).

ARTICLE 17.

RIGHT-OF-WAY.

Sec.	
63-3-809.	Procedure upon approach of authorized emergency vehicles; procedure upon approaching certain stationary vehicles using authorized flashing lights; duty of driver of authorized emergency, recovery or utility service vehicle.

§ 63-3-805. Vehicle entering through highway.

JUDICIAL DECISIONS

ANALYSIS

5. Negligence — In general.
7. —Comparative negligence.
10. Negligence not found.

5. Negligence — In general.

7. —Comparative negligence.

Circuit court did not err, pursuant to Miss. Code Ann. §§ 85-5-7(5) and 63-3-805, in refusing an apportionment-of-fault jury instruction because the uncontested evidence presented at trial demonstrated that it was one motorist's negligence that was the sole proximate cause of the accident at an intersection and the injuries sustained by the other motorist and the other motorist's spouse. Dunnam v. Abney, 137 So. 3d 876, 2013 Miss. App. LEXIS 770 (Miss. Ct. App. 2013), cert. denied, 139 So. 3d 74, 2014 Miss. LEXIS 242 (Miss. 2014).

10. Negligence not found.

In a widow's wrongful-death action, the trial court properly entered a directed verdict in favor of an employer and an employee because the employee had the right of way to proceed onto the highway unless the decedent's pickup truck was so close as to constitute an immediate hazard, and the employee testified that the truck was approximately three-fourths of a mile away. Moreno v. TLSL, Inc., 187 So. 3d 127, 2016 Miss. LEXIS 124 (Miss. 2016).

§ 63-3-809. Procedure upon approach of authorized emergency vehicles; procedure upon approaching certain stationary vehicles using authorized flashing lights; duty of driver of authorized emergency, recovery or utility service vehicle.

(1) Upon the immediate approach of an authorized emergency vehicle, when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a law enforcement officer.

(2) Upon approaching a stationary authorized emergency vehicle, when such vehicle is giving a signal by use of flashing, blinking, oscillating or rotating lights, as authorized under Section 63-7-19, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a roadway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions and being prepared to stop, if changing lanes would be impossible or unsafe.

(3) Upon approaching a stationary recovery vehicle, utility service vehicle, sanitation vehicle, or highway maintenance vehicle, when the stationary vehicle is giving a signal by use of authorized flashing lights, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle, if possible, with due regard to safety and traffic conditions, if on a roadway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions and being prepared to stop, if changing lanes would be impossible or unsafe.

(4) For purposes of this section, unless the context otherwise clearly requires:

(a) "Highway maintenance vehicle" means a vehicle used for the maintenance of highways and roadways in this state and is:

(i) Owned or operated by the Department of Transportation, a county, a municipality or other political subdivision of this state; or

(ii) Owned or operated by a contractor under contract with the Department of Transportation, a county, a municipality or other political subdivision of this state.

(b) "Recovery vehicle" means a truck that is specifically designed for towing a disabled vehicle or a combination of vehicles.

(c) "Utility service vehicle" means a vehicle used by any person, municipality, county, electric cooperative, corporation, board, commission, district or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, wastewater services, telecommunications services or any combination thereof, for sale to consumers in any particular service area, or by any contractor under contract with any such entity.

(d) "Sanitation vehicle" means a vehicle used to collect solid waste, refuse or recyclable material that is:

(i) Owned or operated by a county, a municipality or other political subdivision of this state; or

(ii) Owned or operated by a contractor under contract with a county, a municipality or other political subdivision of this state.

(5) Upon approaching a vehicle that is marked with some combination of white flashing strobe or amber and red lights, as provided in Section 63-7-19, that is operated by a United States rural mail carrier for the purpose of delivering United States mail, and that is stationary, including when the vehicle is signaling the intention to enter the roadway, a person who drives an approaching vehicle shall:

(a) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle, if possible, with due regard to safety and traffic conditions, if on a roadway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(b) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions and being prepared to stop, if changing lanes would be impossible or unsafe.

(6) A violation of this section is a misdemeanor punishable by a fine:

(a) Of not more than Two Hundred Fifty Dollars ($250.00); or

(b) Of not more than One Thousand Dollars ($1,000.00) if violation of this section results in:

(i) Property damage to the emergency vehicle, sanitation vehicle, highway maintenance vehicle, utility service vehicle, recovery vehicle or rural mail carrier vehicle; or

(ii) Bodily injury to the driver or a passenger of any such vehicle.

(7) This section shall not operate to relieve the driver of an authorized emergency vehicle, a sanitation vehicle, a recovery vehicle, a utility service

vehicle, a highway maintenance vehicle or a rural mail carrier vehicle from the duty to drive with due regard for the safety of all persons using the roadway.

HISTORY: Codes, 1942, § 8199; Laws, 1938, ch. 200; Laws, 2007, ch. 315, § 1; Laws, 2012, ch. 412, § 1; Laws, 2014, ch. 314, § 1; Laws, 2017, ch. 355, § 1, eff from and after July 1, 2017.

Amendment Notes — The 2014 amendment in (3), substituted "sanitation vehicle, or" for "or a" preceding "highway maintenance vehicle, when" and substituted "the stationary" for "such" thereafter; deleted "recovery vehicle, the utility service vehicle or the highway maintenance" following "lane change into a lane not adjacent to the stationary" in (3)(a); added (4)(d); and made a minor stylistic change.

The 2017 amendment added (5) and redesignated the remaining subsections accordingly; and in (6)(i) and (7), inserted references to "sanitation vehicle" and "rural mail carrier vehicle" and made related stylistic changes.

JUDICIAL DECISIONS

2. Illustrative Cases.

Jury was clearly instructed on Miss. Code Ann. §§ 63-3-809(1), 63-3-619(2), and as they fairly announced the applicable law in this wrongful death case, the circuit court did not abuse its discretion in denying appellant's proposed instruction. Rushing v. Mobile Forest Prods., 282 So. 3d 708, 2019 Miss. App. LEXIS 370 (Miss. Ct. App. 2019).

ARTICLE 21.

REQUIRED STOPS.

Sec.

63-3-1007. Stops at railroad grade crossings in obedience to signal indicating approach of train or other on-track equipment; effect of noncompliance upon right of recovery in civil action.

63-3-1013. Moving heavy equipment at railroad grade crossing.

§ 63-3-1007. Stops at railroad grade crossings in obedience to signal indicating approach of train or other on-track equipment; effect of noncompliance upon right of recovery in civil action.

(1) Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest track of such railroad and shall not proceed until he can do so safely.

(2) The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train or other on-track equipment, including, but not limited to, hi-rail vehicles and

on-track maintenance equipment. The violation of this section shall not of itself defeat recovery and the question of negligence or the violation aforesaid, shall be left to the jury and the comparative negligence statute and prima facie statute of this state shall apply in these cases as in other cases of negligence.

HISTORY: Codes, 1942, § 8209; Laws, 1938, ch. 200; Laws, 2004, ch. 448, § 3, eff from and after July 1, 2004; Laws, 2018, ch. 303, § 1, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment" in (1) and (2).

§ 63-3-1013. Moving heavy equipment at railroad grade crossing.

No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six (6) or less miles per hour or a vertical body or load clearance of less than nine (9) inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without notice of any such intended crossing first being given to a superintendent of such railroad and a reasonable time being given to such railroad to provide proper protection at such crossing.

Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment and for signals indicating the approach of a train or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment, and shall not proceed until the crossing can be made safely.

No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment

HISTORY: Codes, 1942, § 8212; Laws, 1938, ch. 200; Laws, 2004, ch. 448, § 6, eff from and after July 1, 2004; Laws, 2018, ch. 303, § 2, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment inserted "or other on-track equipment, including, but not limited to, hi-rail vehicles and on-track maintenance equipment" twice in the second paragraph and once in the last paragraph.

ARTICLE 23.

PEDESTRIANS' RIGHTS AND DUTIES.

§ 63-3-1111. Rights of blind and otherwise incapacitated pedestrians crossing at or near intersections or crosswalks; effect of failure to employ cane or guide dog; regulation of use of canes.

HISTORY: Codes, 1942, § 8203.5; Laws, 1950, ch. 330, §§ 1-4; brought forward without change, Laws, 2018, ch. 341, § 9, eff from and after July 1, 2018.

Editor's Notes — This section was brought forward without change by Laws of 2018, ch. 341, § 9, effective from and after July 1, 2018. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2018 amendment brought the section forward without change.

ARTICLE 25.

RECKLESS OR CARELESS DRIVING AND MISCELLANEOUS RULES.

§ 63-3-1201. Reckless driving.

JUDICIAL DECISIONS

5. Miscellaneous.

There was no error in failing to give a lesser included offense instruction because reckless driving was not a lesser included offense of the crime of failing to yield to a law enforcement officer; no element of the crime of reckless driving was included in the crime of fleeing a law-enforcement officer. Johnson v. State, 228 So. 3d 933, 2017 Miss. App. LEXIS 112 (Miss. Ct. App.), cert. denied, 229 So. 3d 120, 2017 Miss. LEXIS 379 (Miss. 2017).

Circuit court improperly ruled for a family in their action against the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) because it erroneously applied the legal standard for reckless disregard under the Mississippi Torts Claim Act; MDWFP officers possessed the discretion to request that boaters pull out of the hazardous and high-traffic area of a river, and the MDWFP possessed the authority to regulate the boating traffic on the river and the discretion to do so in a safe manner. Miss. Dep't of Wildlife, Fisheries, & Parks v. Webb, 248 So. 3d 823, 2017 Miss. App. LEXIS 217 (Miss. Ct. App. 2017), rev'd, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

There was no error in failing to give a lesser included offense instruction because reckless driving was not a lesser included offense of the crime of failing to yield to a law enforcement officer; no element of the crime of reckless driving was included in the crime of fleeing a law-enforcement officer. Johnson v. State, 228 So. 3d 933, 2017 Miss. App. LEXIS 112 (Miss. Ct. App.), cert. denied, 229 So. 3d 120, 2017 Miss. LEXIS 379 (Miss. 2017).

§ 63-3-1213. Careless driving.

JUDICIAL DECISIONS

ANALYSIS

3. Probable cause.
5. Evidence sufficient.

3. Probable cause.

Because a police officer observed defendant's vehicle cross the right lane fog line once, and then again approach or "bump" the fog line, and the video evidence from the officer's car camera, while unclear, did not directly contradict the officer's testimony, there was sufficient evidence that the officer had probable cause to believe that defendant had driven in a careless or imprudent manner, without due regard for the width and use of the streets and highways, and to stop defendant's vehicle. Martin v. State, 240 So. 3d 1047, 2017 Miss. LEXIS 424 (Miss. 2017), cert. denied, — U.S. —, 138 S. Ct. 2592, 201 L. Ed. 2d 307, 2018 U.S. LEXIS 3234 (U.S. 2018).

Testimony from the arresting officer that he observed defendant's truck pass so close to a deputy that the outside mirror could have struck the officer and that the truck then ran off the road provided sufficient probable cause for a traffic stop based on careless driving. Ludwig v. State, 122 So. 3d 1229, 2013 Miss. App. LEXIS 313 (Miss. Ct. App. 2013).

5. Evidence sufficient.

Evidence was sufficient to support defendant's convictions of running a red light and careless driving where a police officer testified that she observed defendant drive his entire vehicle over a concrete median and saw him run a red light. Lobo v. City of Ridgeland, 135 So. 3d 148, 2013 Miss. App. LEXIS 300 (Miss. Ct. App. 2013).

CHAPTER 5.

SIZE, WEIGHT AND LOAD

Sec.
63-5-19. Vehicle length limitations; generally.
63-5-23. Front projecting loads on vehicles.
63-5-33. Gross weight of vehicle and loads; Table III [Subsection (5) repealed effective July 1, 2022].
63-5-49. Inspection and weighing of vehicles; assessment of penalty against owner or operator of overweight vehicle; removal of load in excess of legal limit; failure to stop and submit vehicle to inspection or weighing; escort of superload vehicle.
63-5-52. Special permits for vehicles transporting heavy equipment with nondivisible loads having gross vehicle weight of 150,000 pounds or less; transference of permit from one pulling unit to another; forestry permits for vehicles having gross vehicle weight of 100,000 pounds or less and dimensions of 14 feet wide and 14 feet high or less.

§ 63-5-19. Vehicle length limitations; generally.

(1) Except as otherwise provided in this section, no single vehicle, unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of forty (40) feet.

(2) No semitrailer operating in a truck tractor-semitrailer combination and no trailer drawn by a motor vehicle shall exceed a length of fifty-three (53) feet.

(3) No semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination and no trailer operating in a double trailer combination drawn by a motor vehicle shall exceed a length of thirty (30) feet.

(4) No semitrailer or trailer combinations in excess of two (2) units, excluding the towing motor vehicle, shall be allowed to operate on the highways of this state.

(5) No motor home shall have an overall length exclusive of front and rear bumpers, in excess of forty-five (45) feet.

(6) The load upon the rear vehicle of a combination of vehicles transporting forest or agricultural products in their natural state shall not project more than twenty-eight (28) feet beyond the rear axle of the vehicle except in the special circumstance hereinafter prescribed. If such products project more than twenty-eight (28) feet beyond the rear axle and, due to the end use for which they are intended (such as tall utility poles or light poles or the like), such products cannot be shortened without rendering them useless for the finished product for which they have been cut, then such special circumstance may be considered good cause for the obtaining of a permit which shall be procured pursuant to Section 63-5-51 before vehicles transporting such products may operate. Except as otherwise provided in Section 63-5-21, any vehicle transporting projecting loads as described in this subsection that extend four (4) feet or more beyond the rear or body of the vehicle shall operate only during daylight hours, and the load on vehicles designed to transport forestry products shall be secured by at least two (2) chains, two (2) wire ropes, or two (2) nylon straps, one (1) positioned behind the front bolster and one (1) in front of the back bolster.

(7) Except as otherwise provided in Section 63-5-21, the rear projecting load of any vehicle operating during the period described under Section 63-7-11 may not extend four (4) feet or more beyond the rear or body of the vehicle, or as otherwise allowable by federal law.

(8) The length limitations on projecting loads prescribed in this section do not apply to a single vehicle or the rear vehicle of a combination of vehicles designed for on-farm delivery and unloading of any agricultural product, in its natural or manufactured form, which is fitted with an auger or similar unloading device permanently affixed to the vehicle that extends no more than eight (8) feet horizontally beyond the rear or body of the vehicle provided that no portion of such device which extends four (4) feet or more beyond the rear or body of the vehicle is less than seven (7) feet above the roadway surface. However, any such vehicle may not be operated on the public highways, roads or streets of this state during the period described under Section 63-7-11.

(9) A vehicle designed and especially constructed to transport raw cotton from harvest to the cotton gin may have a total overall length not to exceed fifty (50) feet whenever any such vehicle is being operated within a radius of fifty (50) miles of the vehicle's home base or its contractual customer.

HISTORY: Codes, 1942, § 8267; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 2; Laws, 1950, ch. 480; Laws, 1956, ch. 380; Laws, 1958, ch. 502; Laws, 1962, ch. 530; Laws, 1971, ch. 354, § 1; ch. 317; Laws, 1980, ch. 316, § 1; Laws, 1982, ch. 447, § 1;

Laws, 1983, ch. 428, § 2; Laws, 1995, ch. 629, § 1; Laws, 2000, ch. 318, § 3; Laws, 2001, ch. 557, § 1; Laws, 2002, ch. 405, § 2; Laws, 2003, ch. 460, § 1, eff from and after passage (approved Mar. 23, 2003); Laws, 2019, ch. 374, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment added "or as otherwise allowable by federal law" at the end of (7).

§ 63-5-23. Front projecting loads on vehicles.

The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three (3) feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with such bumper, or as otherwise allowable by federal law.

HISTORY: Codes, 1942, § 8267; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 2; Laws, 1950, ch. 480; Laws, 1956, ch. 380; Laws, 1958, ch. 502; Laws, 1962, ch. 530; Laws, 1971, ch. 354, § 1, eff from and after passage (approved March 15, 1971); Laws, 2019, ch. 374, § 2, eff from and after July 1, 2019.

Amendment Notes — The 2019 amendment, inserted "(3)" and added "or as otherwise allowable by federal law."

§ 63-5-27. Wheel and axle loads.

HISTORY: Codes, 1942, § 8270; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 3; Laws, 1948, ch. 328, § 5; Laws, 1950, ch. 472; Laws, 1981, ch. 366, § 5; Laws, 1982, ch. 479, § 1; Laws, 1995, ch. 326, § 1; Laws, 2001, ch. 352, § 1, eff from and after passage (approved Mar. 11, 2001); brought forward without change, Laws, 2020, ch. 378, § 2, eff from and after July 1, 2020.

Editor's Notes — This section was brought forward without change by Laws of 2020, ch. 378, § 2. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.
Amendment Notes — The 2020 amendment brought the section forward without change.

§ 63-5-29. Gross weight of vehicle and loads; Table I.

HISTORY: Codes, 1942, § 8271; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 4; Laws, 1948, ch. 328, § 6; Laws, 1954, ch. 335; Laws, 1958, ch. 501; Laws, 1960, ch. 409; Laws, 1963, 1st Ex Sess ch. 22; Laws, 1964, ch. 458, §§ 1, 2; Laws, 1964, 1st Ex Sess ch. 33; Laws, 1974, ch. 574, § 1; Laws, 1994, ch. 427, § 1; Laws, 2001, ch. 596, § 56, eff from and after July 1, 2001; brought forward without change, Laws, 2020, ch. 378, § 3, eff from and after July 1, 2020.

Editor's Notes — This section was brought forward without change by Laws of 2020, ch. 378, § 3. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.
Amendment Notes — The 2020 amendment brought the section forward without change.

§ 63-5-31. Gross weight of vehicle and loads; Table II.

HISTORY: Codes, 1942, § 8271; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 4;

Laws, 1948, ch. 328, § 6; Laws, 1954, ch. 335; Laws, 1958, ch. 501; Laws, 1960, ch. 409; Laws, 1963, 1st Ex Sess ch. 22; Laws, 1964, ch. 458, §§ 1, 2; Laws, 1964, 1st Ex Sess ch. 33; Laws, 2001, ch. 596, § 57, eff from and after July 1, 2001; brought forward without change, Laws, 2020, ch. 378, § 4, eff from and after July 1, 2020.

Editor's Notes — This section was brought forward without change by Laws of 2020, ch. 378, § 4. Since the language of the section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

Amendment Notes — The 2020 amendment brought the section forward without change.

§ 63-5-33. Gross weight of vehicle and loads; Table III [Subsection (5) repealed effective July 1, 2022].

(1) Subject to the limitations imposed on wheel and axle loads by Section 63-5-27, and to the further limitations hereinafter specified, the total combined weight (vehicles plus load) on any group of axles of a vehicle or a combination of vehicles shall not exceed the value given in the following table (Table III) corresponding to the distance in feet between the extreme axles of the group, measured longitudinally to the nearest foot, on those highways or parts of highways designated by the Mississippi Transportation Commission as being capable of carrying the maximum load limits and, in addition thereto, such other highways or parts of highways found by the commission to be suitable to carry the maximum load limits from an engineering standpoint, and so designated as such by order of the commission entered upon its minutes and published once each week for three (3) consecutive weeks in a daily newspaper published in this state and having a general circulation therein. The maximum total combined weight carried on any group of two (2) or more consecutive axles shall be determined by the formula contained in the Federal Weight Law enacted January 4, 1975, as follows: W=500 (LN/N-1+12N+36) where W=maximum weight in pounds carried on any group of two (2) or more axles computed to the nearest five hundred (500) pounds, L=distance in feet between the extremes of any group of two (2) or more consecutive axles, and N=number of axles in any group under consideration.

TABLE III

DISTANCE IN FEET BETWEEN THE EXTREMES OF ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES	MAXIMUM LOAD IN POUNDS CARRIED ON ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES					
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
4	34,000					

TABLE III

DISTANCE IN FEET BETWEEN THE EXTREMES OF ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES	MAXIMUM LOAD IN POUNDS CARRIED ON ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES					
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
5	34,000					
6	34,000		Axle groups in			
7	34,000					
8 and less	34,000	34,000	these spacings			
More than						
8	38,000	42,000				
9	39,000	42,500				
10	40,000	43,500	impractical			
11		44,000				
12		45,000	50,000			
13		45,500	50,500			
14		46,500	51,500			
15		47,000	52,000			
16		48,000	52,500	58,000		
17		48,500	53,500	58,500		
18		49,500	54,000	59,000		
19		50,000	54,500	60,000		
20		51,000	55,500	60,500	66,000	
21		51,500	56,000	61,000	66,500	
22		52,500	56,500	61,500	67,000	
23		53,000	57,500	62,500	68,000	
24		54,000	58,000	63,000	68,500	74,000
25		54,500	58,500	63,500	69,000	74,500
26		55,500	59,500	64,000	69,500	75,000
27		56,000	60,000	65,000	70,000	75,500
28		57,000	60,500	65,500	71,000	76,500
29		57,500	61,500	66,000	71,500	77,000
30		58,500	62,000	66,500	72,000	77,500
31		59,000	62,500	67,500	72,500	78,000
32		60,000	63,500	68,000	73,000	78,500
33			64,000	68,500	74,000	79,000

TABLE III

DISTANCE IN FEET BETWEEN THE EXTREMES OF ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES	MAXIMUM LOAD IN POUNDS CARRIED ON ANY GROUP OF 2 OR MORE CONSECUTIVE AXLES					
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
34			64,500	69,000	74,500	80,000
35			65,500	70,000	75,000	80,000
36			66,000	70,500	75,500	80,000
37			66,500	71,000	76,000	80,000
38			67,500	71,500	77,000	80,000
39			68,000	72,500	77,500	80,000
40			68,500	73,000	78,000	80,000
41			69,500	73,500	78,500	80,000
42			70,000	74,000	79,000	80,000
43			70,500	75,000	80,000	80,000
44			71,500	75,500	80,000	80,000
45			72,000	76,000	80,000	80,000
46			72,500	76,500	80,000	80,000
47			73,500	77,500	80,000	80,000
48			74,000	78,000	80,000	80,000
49			74,500	78,500	80,000	80,000
50			75,500	79,000	80,000	80,000
51			76,000	80,000	80,000	80,000
52			76,500	80,000	80,000	80,000
53			77,500	80,000	80,000	80,000
54			78,000	80,000	80,000	80,000
55			78,500	80,000	80,000	80,000
56			79,500	80,000	80,000	80,000
57			80,000	80,000	80,000	80,000

(2) Moreover, in addition to the per axle weight limitations specified by Section 63-5-27, two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing that the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more, except that, until September 1, 1989, the axle distance for tank trailers, dump trailers and ocean transport container haulers may be thirty (30) feet or more. Such overall gross weight may not exceed eighty thousand (80,000) pounds, except as provided by this section.

(3) Notwithstanding the provisions of Section 63-5-27 and/or Section 63-5-29 to the contrary, vehicles hauling products in the manner set forth in this subsection, whether or not such vehicles are operating with a harvest

permit, shall be allowed a gross weight of not to exceed forty thousand (40,000) pounds on any tandem. Vehicles operating without a harvest permit shall be allowed a tolerance not to exceed five percent (5%) above their authorized gross vehicle weight, tandem or axle weight; except that the maximum gross vehicle weight of any such vehicle shall not exceed eighty thousand (80,000) pounds plus a tolerance thereon of not more than two percent (2%). Vehicles operating without a harvest permit loading at a point of origin having scales available for weighing the vehicle shall not be eligible for any tolerance over the gross weight limit of eighty thousand (80,000) pounds. Vehicles operating with a harvest permit shall be allowed a tolerance not to exceed ten percent (10%) above their authorized tandem or axle weight, but the maximum gross vehicle weight of any such vehicle shall not exceed eighty-four thousand (84,000) pounds. However, neither the increased weights in this subsection nor any tolerance shall be allowed on federal interstate highways or on other highways where a tolerance is specifically prohibited by the Transportation Commission, the county board of supervisors or the municipal governing authorities as provided for in Section 63-5-27. The tolerance allowed by this subsection shall only apply to the operation of vehicles from the point of loading to the point of unloading for processing, and to the operation of vehicles hauling sand, gravel, woodchips, wood shavings, sawdust, fill dirt, and agricultural products, and products for recycling or materials for the construction or repair of highways. The range of such operation shall not exceed a radius of one hundred (100) miles except where the products are being transported for processing within this state.

(4) Notwithstanding the provisions of Section 63-5-27 and/or Section 63-5-29 to the contrary, vehicles hauling prepackaged products, unloaded at a state port or to be loaded at a state port, which are containerized in such a manner as to make subdivision thereof impractical shall be allowed a gross weight of not to exceed forty thousand (40,000) pounds on any tandem, and a tolerance not to exceed ten percent (10%) above their authorized gross weight, tandem or axle weight; except that the maximum weight of any vehicle shall not exceed eighty thousand (80,000) pounds plus a tolerance thereon of not more than two percent (2%); however, neither the increased weights in this subsection nor any tolerance shall be allowed on federal interstate highways or on other highways where a tolerance is specifically prohibited by the Transportation Commission, the county board of supervisors or the municipal governing authorities as provided for in Section 63-5-27.

(5)(a) Vehicles for which a harvest permit has been issued pursuant to Section 27-19-81(4) shall be allowed a gross vehicle weight not to exceed eighty-four thousand (84,000) pounds. However, the board of supervisors of any county and the governing authorities of any municipality may designate the roads, streets and highways under their respective jurisdiction on and along which vehicles for which a harvest permit has been issued may travel. This subsection shall not apply to the federal interstate system.

(b) Any owner or operator who has been issued a harvest permit and who wishes to operate a vehicle on the roads, streets or highways under the jurisdiction of a county or municipality at a gross vehicle weight greater than the weight allowed by law or greater than the maximum weight established for such roads, streets or highways by the board of supervisors or municipal governing authorities, shall notify, in writing, the board of supervisors or the governing authorities, as the case may be, before operating such vehicle on the roads, streets or highways of such county or municipality. In his notice, the permit holder shall identify the routes over which he intends to operate vehicles for which the permit has been issued and the dates or time period during which he will be operating such vehicles. The board of supervisors or the governing authorities, as the case may be, shall have two (2) working days to respond in writing to the permit holder to notify the permit holder of the routes on and along which the permit holder may operate vehicles for which a harvest permit has been issued. Failure of the board of supervisors or the governing authorities timely to notify the permit holder and to designate the routes on and along which the permit holder may operate shall be considered as authorizing the permit holder to operate on any of the roads, streets or highways of the county or municipality in accordance with the authority granted to the permit holder by the harvest permit.

(c) Any time a timber deed is filed with the chancery clerk, the grantee, at that time, may make a written request of the board of supervisors of the county or the governing authorities of the municipality, as the case may be, for the purpose of providing to the grantee, within three (3) working days of the filing of the request, a designated and approved route over the roads, streets or highways under the jurisdiction of the county or city, as the case may be, that the grantee may travel for the purpose of transporting harvested timber. Upon providing such route designation, the county or city, as the case may be, shall also provide to the grantee a map designating the approved route. An approved route designation provided to a grantee under the provisions of this paragraph shall be valid for a period of six (6) months from its date of issue. The permit authorized to be issued under paragraph (b) of this subsection shall not be required for any person who obtains a permit issued under this paragraph.

(d) This subsection (5) shall stand repealed from and after July 1, 2022.

(6) Nothing in this section or subsections (1) through (4) of Section 63-5-27 shall be construed to deny the operation of any vehicle or combination of vehicles that could be lawfully operated upon the interstate highway system of this state on January 4, 1975.

(7)(a) Notwithstanding any provisions of Section 63-5-27 to the contrary, a vehicle that is operated by an engine fueled primarily by compressed or liquefied natural gas may exceed the gross vehicle weight limits by an amount, not to exceed a maximum of two thousand (2,000) pounds, that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by the vehicle and the weight of a comparable diesel tank and fueling system.

(b) The weight exception provided in this subsection shall apply to all interstate highways per the exemption expressly permitted by 23 USC Section 127.

HISTORY: Codes, 1942, § 8271; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 4; Laws, 1948, ch. 328, § 6; Laws, 1954, ch. 335; Laws, 1958, ch. 501; Laws, 1960, ch. 409; Laws, 1963, 1st Ex Sess ch. 22; Laws, 1964, ch. 458, §§ 1, 2; Laws, 1964, 1st Ex Sess ch. 33; Laws, 1981, ch. 366, § 6; Laws, 1981, ch. 532, § 1; Laws, 1982, ch. 479, § 2; Laws, 1984, ch. 364; Laws, 1989, ch. 385, § 1; Laws, 1993, ch. 478, § 2; Laws, 1994, ch. 501, § 3; Laws, 1996, ch. 408, § 2; Laws, 1997, ch. 548, § 2; Laws, 1998, ch. 592, § 2; Laws, 2000, ch. 589, § 2; Laws, 2002, ch. 386, § 2; Laws, 2009, ch. 554, § 2; Laws, 2013, ch. 485, § 2; Laws, 2016, ch. 343, § 2, eff from and after July 1, 2016; Laws, 2018, ch. 425, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 378, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2016 amendment substituted "July 1, 2019" for "July 1, 2016" in (5)(d).

The 2018 amendment, in (3), added the third sentence, substituted "ten percent (10%)" for "five percent (5%)" in the fourth sentence, and deleted the former last sentence, which read: "The tolerance shall not be allowed for vehicles loading at a point of origin having scales available for weighing each individual axle of the vehicle; provided, however, that vehicles loading at a point of origin having scales available for weighing the vehicle shall not be eligible for any tolerance over the gross weight limit of eighty thousand (80,000) pounds"; substituted "ten percent (10%)" for "five percent (5%)" in (4); and extended the date of the repealer for subsection (5) by substituting "July 1, 2022" for "July 1, 2019."

The 2020 amendment added (7).

§ 63-5-49. Inspection and weighing of vehicles; assessment of penalty against owner or operator of overweight vehicle; removal of load in excess of legal limit; failure to stop and submit vehicle to inspection or weighing; escort of superload vehicle.

(1) Any police officer, law enforcement officer of the Department of Public Safety or authorized enforcement officer of the Mississippi Department of Transportation may require the driver of any vehicle that is required by law or by any rule or regulation of the Mississippi Department of Transportation or the Department of Revenue to stop at inspection stations and submit to an inspection to stop and submit to a weighing of the vehicle, either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest scales for weighing. To aid the enforcement of this chapter, the Transportation Department may assign up to forty (40) portable scale teams as it deems necessary for efficient enforcement.

(2) Whenever such an officer, upon weighing a vehicle and load as above provided, determines that the weight is unlawful, such officer shall assess a penalty against the owner or operator in accordance with Section 27-19-89, and may require the driver to drive the vehicle to a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle to such limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operator.

(3) Any police officer, law enforcement officer of the Department of Public Safety, or authorized enforcement officer of the Transportation Department

who stops a vehicle pursuant to subsection (1) of this section shall have the authority to inspect such vehicle to determine whether or not such vehicle is engaged in the illegal transportation of any contraband.

(4) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load to a weighing, or who fails or refuses, when directed by such an officer upon weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, shall be guilty of a misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and jail sentence and, if operating at a gross weight in excess of the legal limit, such additional penalty or assessment as provided by law.

(5) It is the intent of the Legislature that the Department of Public Safety and all police officers shall cooperate with the Transportation Department in the enforcement of the highway weight laws of this state.

(6) Any police officer, law enforcement officer of the Department of Public Safety or authorized enforcement officer of the Mississippi Department of Transportation shall be authorized to escort any vehicle designated as a superload vehicle pursuant to the regulations of the Mississippi Department of Transportation. The escort shall be performed in a marked law enforcement vehicle with operating blue lights.

HISTORY: Codes, 1942, § 8272; Laws, 1938, ch. 200; Laws, 1946, ch. 307, § 5; Laws, 1950, ch. 482; Laws, 1981, ch. 366, § 9; Laws, 1992, ch. 496, § 21; Laws, 1994, ch. 382, § 2, eff from and after July 1, 1994; Laws, 2020, ch. 380, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, in (1), substituted “Department of Revenue” for “State Tax Commission”; and added (6).

§ 63-5-52. Special permits for vehicles transporting heavy equipment with nondivisible loads having gross vehicle weight of 150,000 pounds or less; transference of permit from one pulling unit to another; forestry permits for vehicles having gross vehicle weight of 100,000 pounds or less and dimensions of 14 feet wide and 14 feet high or less.

(1) In addition to other permits authorized to be issued for overweight loads, the Department of Transportation is authorized to issue annual special permits for vehicles transporting heavy equipment with a nondivisible load having a gross vehicle weight of one hundred fifty thousand (150,000) pounds or less. The permit shall be issued for the pulling unit. The department may establish rules and regulations for the issuance and transference of the permit from one pulling unit to another. The fee for such permit shall be Four Thousand Five Hundred Dollars ($4,500.00) and the permit shall expire one (1) year from the beginning movement date. Movements under such permit shall be made under such safety and equipment restrictions as the department may

establish. The department shall specify the routes over which such movements may be conducted.

(2) In addition to other permits to be used for overweight and oversized loads, the Department of Transportation is authorized to issue annual special permits for the transporting of forestry-related equipment to vehicles having a gross vehicle weight of not more than one hundred thousand (100,000) pounds and dimensions of not more than fourteen (14) feet wide and fourteen (14) feet high. The permit, to be referred to as the "Forestry Permit," shall be issued for each vehicle that serves as a pulling unit, at a fee of Two Hundred Dollars ($200.00) per unit annually. The Forestry Permit shall be available for the hauling of equipment or machinery customary and necessary for timber-harvesting activities, including, but not limited to, bulldozers, knuckleboom loaders, cutters, skidders, track machines of the same kind, mulchers and other machines used for silvicultural activities. The Forestry Permit shall be available to those hauling the subject equipment to and from timber harvest operations, as well as those hauling the equipment to and from a truck repair shop or equipment service center.

HISTORY: Laws, 2003, ch. 538, § 1; Laws, 2006, ch. 312, § 1; Laws, 2008, ch. 337, § 1, eff from and after July 1, 2008; Laws, 2020, ch. 385, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment added (2).

CHAPTER 7.

EQUIPMENT AND IDENTIFICATION

General Provisions. 63-7-1

GENERAL PROVISIONS

Sec.	
63-7-19.	Lights on police and emergency vehicles; lights on rural mail carrier vehicles; lights on sanitation vehicles; lights on military funeral procession escort vehicles; when lights authorized by this section must be used.
63-7-23.	Color of lighting devices.
63-7-59.	Windows and window glass generally; windshield wipers; tinted or darkened windows prohibited unless certified; additional fee for inspection stations conducting tests of light transmittance of motor vehicle windows; exceptions; penalties; public awareness program.
63-7-60.	Annual permits to official tint inspection stations for inspection of windshields and issuance of labels as required by Section 63-7-59.
63-7-64.	Motorcycle or motor scooter crash helmets.

§ 63-7-19. Lights on police and emergency vehicles; lights on rural mail carrier vehicles; lights on sanitation vehicles; lights on military funeral procession escort vehicles; when lights authorized by this section must be used.

(1)(a) Except as otherwise provided for unmarked vehicles under Section 19-25-15 and Section 25-1-87, every police vehicle shall be marked with blue lights. Every ambulance and special use EMS vehicle as defined in Section 41-59-3 shall be marked with red lights front and back and also may be marked with white and amber lights in addition to red lights. Every emergency management/civil defense vehicle, including emergency response vehicles of the Department of Environmental Quality, shall be marked with blinking, rotating or oscillating red lights. Official vehicles of a 911 Emergency Communications District may be marked with red and white lights. Every wrecker or other vehicle used for emergency work, except vehicles authorized to use blue or red lights, shall be marked with blinking, oscillating or rotating amber-colored lights to warn other vehicles to yield the right-of-way, as provided in Section 63-3-809. Only police vehicles used for emergency work may be marked with blinking, oscillating or rotating blue lights to warn other vehicles to yield the right-of-way. Only law enforcement vehicles, fire vehicles, private or department-owned vehicles used by firemen of volunteer fire departments which receive funds pursuant to Section 83-1-39 when responding to calls, emergency management/civil defense vehicles, emergency response vehicles of the Department of Environmental Quality, ambulances used for emergency work, and 911 Emergency Communications District vehicles may be marked with blinking, oscillating or rotating red lights to warn other vehicles to yield the right-of-way. This section shall not apply to school buses carrying lighting devices in accordance with Section 63-7-23.

(b) Emergency response vehicles listed in this subsection (1) are also authorized to use alternating flashing headlights when responding to any emergency.

(2) Any vehicle operated by a United States rural mail carrier for the purpose of delivering United States mail may be marked with two (2) amber-colored lights on front top of the vehicle and two (2) red-colored lights on rear top of the vehicle and alternatively or additionally may be marked with a white, flashing strobe light on the roof of the vehicle so as to warn approaching travelers to decrease their speed because of danger of colliding with the mail carrier as he stops and starts along the edge of the road, street or highway.

(3) Any sanitation vehicle operated by a county, municipality or other political subdivision of this state or by a contractor under contract with a county, municipality or other political subdivision of this state to collect solid waste, refuse or recyclable material may be marked with flashing or oscillating white- or amber-colored lights so as to warn approaching travelers to decrease speed because of the danger of colliding with the sanitation collection vehicle as it stops and starts along the road, street or highway.

(4) Any nonlaw enforcement vehicle being used to lead and facilitate the movement of a military funeral procession may be marked with blinking, rotating or oscillating purple lights. "Military funeral procession" means two (2) or more vehicles accompanying the body of a deceased member of the United States Armed Forces, or traveling to the church, chapel or other location at which the funeral service or entombment is to be held.

(5) Any operator of an emergency vehicle authorized to be marked with blinking, rotating or oscillating lights in accordance with this section, shall use blinking, rotating or oscillating lights when operating the emergency vehicle at a speed in excess of thirty (30) miles per hour over the posted speed limit.

HISTORY: Codes, 1942, § 8229-08; Laws, 1948, ch. 343, § 16; Laws, 1950, ch. 407, § 5; Laws, 1962, ch. 527; Laws, 1964, ch. 455, § 1; Laws, 1970, ch. 484, § 1; Laws, 1979, ch. 398, § 1; Laws, 1987, ch. 333, § 1; Laws, 1994, ch. 517, § 1; Laws, 1995, ch. 581, § 1; Laws, 2004, ch. 425, § 5; Laws, 2006, ch. 468, § 2; Laws, 2014, ch. 314, § 2; Laws, 2016, ch. 461, § 1, eff from and after July 1, 2016; Laws, 2018, ch. 451, § 2, eff from and after July 1, 2018.

Editor's Notes — Laws of 2018, ch. 400, § 1, effective March 19, 2018, provides: "SECTION 1. This act shall be known and may be cited as the 'Kaelin Kersh Act'."

Amendment Notes — The 2014 amendment redesignated former (1), (2), and (3), as present (1)(a), (b), and (2); in (1)(b), substituted "Emergency response vehicles listed" for "Any", deleted "vehicle referred to" thereafter, inserted "this" preceding "subsection (1)", substituted "are" for "of this section", and deleted "shall be" preceding "authorized to use"; added (3); and made minor stylistic changes.

The 2016 amendment added (4).

The 2018 amendment added (5).

§ 63-7-23. Color of lighting devices.

(1) The color of lighting devices shall be as follows:

(a) All front clearance lamps, and all side marker lamps, except the one on each side at or near the rear of any bus, truck, truck tractor, semitrailer, full trailer or pole trailer, shall when lighted display an amber color.

(b) No red lighting device of any character shall be mounted at any place other than on or near the rear of any bus, truck, truck tractor, semitrailer, full trailer or pole trailer. However, school buses owned by or under contract with a school district of this state may have affixed at or near the front end thereof red lighting devices that may be caused to blink when the school bus is stopped or in the process of stopping for the purpose of loading or unloading school children. A school bus also may be equipped with a white, flashing strobe light on the roof of the vehicle installed according to standards promulgated by the Mississippi Department of Education as authorized under Section 37-41-1(c).

(c) All rear clearance lamps, the side marker lamps on each side at or near the rear, and any other lamps mounted on the rear, on any bus, truck, truck tractor, semitrailer, full trailer or pole trailer shall when lighted display a red color. However, the stoplight or other warning device on the rear of any motor vehicle may be red or amber.

(d) Backing lights of any color may be mounted on the rear of any motor vehicle if the switch controlling such lights be so arranged that they may be turned on only when the vehicle is in reverse gear. Such backing lights when unlighted shall be so colored or otherwise arranged as not to reflect objectionable glare in the eyes of drivers of vehicles approaching from the rear.

(2) Auxiliary white lights mounted on or near the rear of a motor vehicle, or visible from the rear of the vehicle, shall not be prohibited under the provisions of this section if (a) the vehicle's gross weight is less than twelve thousand one (12,001) pounds, and (b) the lights are designed by the motor vehicle manufacturer or an after-market parts manufacturer so that they may only be illuminated whenever the vehicle is not in motion and the transmission of the vehicle is not capable of transmitting power to the wheels.

(3) No provision of this section shall be so construed as to prohibit the use of any white light or lights for the purpose of illuminating license plates.

(4) Any lamps illuminated when the vehicle is in motion, other than those expressly required or permitted by the provisions of this chapter or other law, shall, if visible from the front, display only a white or amber light; if visible from either side, display an amber light; and if visible from the rear, display a red light.

HISTORY: Codes, 1942, §§ 8229-04, 8229-08; Laws, 1948, ch. 343, §§ 12, 16; Laws, 1950, ch. 407, § 5; Laws, 1962, chs. 526, 527; Laws, 1964, ch. 455, § 1; Laws, 1970, ch. 484, § 1; Laws, 1994, ch. 343, § 1; Laws, 2001, ch. 556, § 1; Laws, 2016, ch. 461, § 2, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment, in (4), inserted "or other law" and "only."

§ 63-7-59. Windows and window glass generally; windshield wipers; tinted or darkened windows prohibited unless certified; additional fee for inspection stations conducting tests of light transmittance of motor vehicle windows; exceptions; penalties; public awareness program.

(1) No person shall drive any motor vehicle required to be registered in this state upon the public roads, streets or highways in this state with any sign or poster, or with any glazing material which causes a mirrored effect, upon the front windshield, side wings or side or rear windows of the vehicle, other than a certificate or other paper required or authorized to be so displayed by law. No person shall drive any motor vehicle required to be registered in this state upon the public roads, streets or highways in this state with any tinted film, glazing material or darkening material of any kind on the windshield of a motor vehicle except material designed to replace or provide a sun shield in the uppermost area as authorized to be installed by manufacturers of vehicles under federal law.

(2) From and after July 1, 2006, no person shall drive any motor vehicle required to be registered in this state upon the public roads, streets or highways in this state with any window tinted or darkened, by tinted film or otherwise, unless:

(a) The windshield of the vehicle has affixed to it a label as provided under subsection (6) of this section certifying that all the windows of the vehicle have a light transmittance of twenty-eight percent (28%) or more; or

(b) The owner or operator of the vehicle has a certificate of medical exemption issued under subsection (4) of this section.

(3) The prohibitions of subsection (2) of this section shall not apply to:

(a) School buses, other buses used for public transportation, any bus or van owned or leased by a nonprofit organization duly incorporated under the laws of this state or any funeral home services vehicle, any limousine owned or leased by a private or public entity, or any government-owned law enforcement or fire department vehicle or any volunteer fire department vehicle;

(b) Any window behind the front two (2) side windows, including the rear window, of any pickup truck, van, motor home, recreational vehicle, sport utility vehicle or multipurpose vehicle that has been tinted or darkened after factory delivery to the extent that the light transmittance of the window meets the minimum light transmittance requirements authorized to be installed for that window and for that vehicle under federal law or regulations before factory delivery; or

(c) Any other motor vehicle the windows of which have been tinted or darkened before factory delivery as permitted by federal law or federal regulations.

(4) Notwithstanding the provisions of subsection (2) of this section, it shall be lawful for any person who has been diagnosed by a physician licensed to practice medicine in the State of Mississippi as having a physical condition or disease that is seriously aggravated by minimum exposure to sunlight to place or have placed upon the windshield or windows of any motor vehicle which he owns or operates or within which he regularly travels as a passenger tinted film or other darkening material that would otherwise be in violation of this section. However, any vehicle, in order to be exempt under this subsection (4), shall have prominently displayed on the vehicle dashboard a certificate of medical exemption on a form prepared by the Commissioner of Public Safety and signed by the person on whose behalf the certificate is issued. The special certificate authorized by this subsection (4) shall be issued free of charge to the applicants through the offices of the tax collectors of the counties. Each applicant shall present to the issuing official:

(a) An affidavit signed personally by the applicant and signed and attested by a physician which states the applicant's physical condition or disease which entitles him to an exemption under this subsection (4); and

(b) Proof of ownership of the motor vehicle by the applicant, or a signed affidavit by the owner of a motor vehicle operated for the use of the applicant, for which he is obtaining the certificate.

(5) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(6) The Department of Public Safety shall issue labels to official tint inspection stations for affixing to the windshield of every motor vehicle required to be inspected in this state with a window therein which has been tinted or darkened with any tinted film or other darkening material after factory delivery. The label shall be affixed to the lower left corner of the windshield, shall be legible from outside the vehicle, and shall indicate the label registration number, a certification of compliance with Mississippi law, and such other information as the Commissioner of Public Safety deems appropriate. The labels shall be of a type which is pressure-sensitive, self-destructive upon removal, and no larger than one (1) inch square in size. Before affixing the label, the inspection station shall conduct a test to determine that the window complies with the light transmittance requirements prescribed under subsection (2) of this section. The test shall be conducted using such methods or devices as may be approved and certified not less often than annually by the Department of Public Safety. For conducting such tests, tint inspection stations shall charge and collect a fee of Five Dollars ($5.00). Two Dollars ($2.00) of the fee shall be retained by the inspection station, and Three Dollars ($3.00) of the fee shall be remitted to the Department of Public Safety and may be expended, upon legislative appropriation, for the operational expenses of the department. No fee shall be charged unless a test is actually performed under this subsection (6). The presence of a label upon the windshield of a motor vehicle shall indicate that the person who affixed the label certifies that the windows of the vehicle meet the restrictions of subsection (2) of this section as to light transmittance.

(7) No person shall install any tinted film, darkening material, glazing material or any other material upon the windshield or any window of a motor vehicle which, after the installation thereof, would result in such vehicle being in violation of subsection (2) of this section.

(8) No label shall be issued for a vehicle on which the windshield or any window of the vehicle has been darkened by the installation of tinted film or by other means, except as authorized under this section.

(9) It shall be unlawful for any person to alter or reproduce any label or certificate of medical exemption approved by the Commissioner of Public Safety under this section for the purpose of misleading law enforcement officers or motor vehicle inspection stations, or to knowingly use any approved label or certificate except as authorized by this section.

(10) Any person violating subsection (7), (8) or (9) of this section, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or imprisonment in the county jail for not more than three (3) months, or by both such fine and imprisonment.

(11) Any violation of this section other than a violation of subsection (7), (8) or (9) of this section shall be punishable upon conviction as provided in Section 63-7-7.

(12) Violations of this section shall be enforced only by law enforcement officers of the Mississippi Department of Public Safety and municipal law enforcement officers of municipalities having a population of two thousand (2,000) or more on the public roads, streets and highways under their jurisdiction.

(13) The Department of Public Safety shall initiate a public awareness program designed to inform and educate persons of the provisions of this section. Funds for such public awareness program shall be available through the office of the Governor's representative for highway safety programs.

HISTORY: Codes, 1942, § 8253; Laws, 1938, ch. 200; Laws, 1983, ch. 416; Laws, 1988, ch. 521, § 1; Laws, 1990, ch. 438, § 1; Laws, 1992, ch. 320, § 1; Laws, 2005, ch. 328, § 1; Laws, 2006, ch. 468, § 1; Laws, 2012, ch. 500, § 1; Laws, 2012, ch. 528, § 1; Laws, 2015, ch. 417, § 3, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment rewrote (6); in (8), which read "Inspection certificates may be issued for motor vehicles having labels affixed pursuant to subsection (6) of this section and for motor vehicles for which a certificate of medical exemption has been issued pursuant to subsection (4) of this section."

§ 63-7-60. Annual permits to official tint inspection stations for inspection of windshields and issuance of labels as required by Section 63-7-59.

(1) The Commissioner of Public Safety shall annually issue permits for and furnish instructions and all necessary forms to official tint inspection stations for the inspection of windshields and issuance of any label as required by Section 63-7-59.

(2) Application for a permit to operate an official tint inspection station shall be made on an official form and shall be granted only when the Commissioner of Public Safety is satisfied that the station is properly equipped and has competent personnel to make the inspection required by Section 63-7-59 and that the inspections will be properly conducted. A fee of Ten Dollars ($10.00) shall be charged any person or facility seeking a permit as an official tint inspection station, or a renewal thereof, for the purpose of defraying the cost of administering the processing of the application.

(3) The Commissioner of Public Safety shall properly supervise and cause inspections to be made of official tint stations and may, after reasonable notice, suspend or revoke and require the surrender of the permit issued to a station which he finds is not properly equipped or conducted. The Commissioner of Public Safety shall maintain and post at the Office of the Department of Public Safety lists of all stations holding permits and of those whose permits have been suspended or revoked.

(4) The Commissioner of Public Safety is authorized to make necessary rules and regulations for the administration and enforcement of this section and Section 63-7-59, including a reasonable provision for the bonding of official tint inspection stations.

HISTORY: Laws, 2015, ch. 417, § 2, eff from and after July 1, 2015.

§ 63-7-64. Motorcycle or motor scooter crash helmets.

No person shall operate or ride upon any motorcycle or motor scooter upon the public roads or highways of this state unless such person is wearing on his or her head a crash helmet that complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to federal Motor Vehicle Safety Standard No. 218 (49 CFR 571.218). Violation of this section shall be deemed a violation of the traffic regulations and rules of the road and punishable as provided by Section 63-9-11. This section shall not apply to a person operating an autocycle as defined in Section 63-3-103 or persons riding any motorcycle or motor scooter in a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years of age or older.

HISTORY: Laws, 1974, ch. 461; Laws, 2012, ch. 544, § 1; Laws, 2015, ch. 406, § 2, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment in the last sentence inserted "a person operating an autocycle as defined in Section 63-3-103 or" and "any motorcycle or motor scooter."

CHAPTER 9.

TRAFFIC VIOLATIONS PROCEDURE

Sec.
63-9-21. Uniform Traffic Ticket Law.
63-9-31. Additional surcharge for traffic violations to fund automation of citations issued by Highway Safety Patrol and wireless radio communications programs; funding of agency expenses; deposit of monies into State General Fund.

§ 63-9-21. Uniform Traffic Ticket Law.

(1) This section shall be known as the Uniform Traffic Ticket Law.

(2) All traffic tickets, except traffic tickets filed electronically as provided under subsection (8) of this section, shall be printed in the original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety. All traffic tickets shall be uniform as prescribed by the Commissioner of Public Safety and the Attorney General, except as otherwise provided in subsection (3)(b) and except that the Commissioner of Public Safety and the Attorney General may alter the form and content of traffic tickets to meet the varying requirements of the different law enforcement agencies. The Commissioner of Public Safety and the Attorney General shall prescribe a separate traffic ticket, consistent with the provisions of subsection (3)(b) of this section, to be used exclusively for violations of the Mississippi Implied Consent Law.

(3)(a) Every traffic ticket issued by any sheriff, deputy sheriff, constable, county patrol officer, municipal police officer or State Highway Patrol officer for any violation of traffic or motor vehicle laws shall be issued on the uniform traffic ticket or uniform implied consent violation ticket consisting of an original and at least two (2) copies and such other copies as may be prescribed by the Commissioner of Public Safety.

(b) The traffic ticket, citation or affidavit issued to a person arrested for a violation of the Mississippi Implied Consent Law shall contain a place for the trial judge hearing the case or accepting the guilty plea, as the case may be, to sign, stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised of his right to have an attorney. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be entered or written on the ticket, citation or affidavit.

(c) Every traffic ticket shall show, among other necessary information, the name of the issuing officer, the name of the court in which the cause is to be heard, and the date and time the person is to appear to answer the charge. The ticket shall include information that will constitute a complaint charging the offense for which the ticket was issued, and when duly sworn to and filed with a court of competent jurisdiction, prosecution may proceed thereunder.

(d) The traffic ticket shall contain a space to include the current address and current telephone number of the person being charged. It shall not contain a space to include the social security number of the person being charged.

(4) All traffic tickets, except traffic tickets filed electronically under subsection (8) of this section, shall be bound in book form, shall be consecutively numbered and each traffic ticket shall be accounted for to the officer issuing such book. The traffic ticket books shall be issued to sheriffs, deputy sheriffs, constables and county patrol officers by the chancery clerk of their respective counties, to each municipal police officer by the clerk of the municipal court, and to each State Highway Patrol officer by the Commissioner of Public Safety.

(5) The chancery clerk, clerk of the municipal court and the Commissioner of Public Safety shall keep a record of all traffic ticket books issued and to whom issued, accounting for all books printed and issued. All traffic tickets submitted electronically shall be filed automatically with the Commissioner of Public Safety and either the clerk of the municipal court or clerk of the justice court using the system of electronic submission for the purpose of maintaining a record of account as prescribed by this subsection (5).

(6) The original traffic ticket, unless the traffic ticket is filed electronically as provided under subsection (8) of this section, shall be delivered by the officer issuing the traffic ticket to the clerk of the court to which it is returnable to be retained in that court's records and the number noted on the docket. However, if a ticket is issued and the person is incarcerated based upon the conduct for which the ticket was issued, the ticket shall be filed with the clerk of the court to which it is returnable no later than 5:00 p.m. on the next business day, excluding weekends and holidays, after the date and time of the person's

incarceration; however, failure to timely file the traffic ticket shall not be grounds for dismissal of the traffic ticket and shall not prevent the person's release from incarceration. The officer issuing the traffic ticket shall also give the accused a copy of the traffic ticket. The clerk of the court shall file a copy with the Commissioner of Public Safety within forty-five (45) days after judgment is rendered showing such information about the judgment as may be required by the commissioner or, in cases in which no judgment has been rendered, within one hundred twenty (120) days after issuance of the ticket. Other copies that are prescribed by the commissioner pursuant to this section shall be filed or retained as may be designated by the commissioner. All copies shall be retained for at least two (2) years.

(7) Failure to comply with the provisions of this section shall constitute a misdemeanor and, upon conviction, shall be punishable by a fine of not less than Ten Dollars ($10.00) nor more than One Hundred Dollars ($100.00).

(8)(a) Law enforcement officers and agencies may file traffic tickets, including tickets issued for a violation of the Mississippi Implied Consent Law and general misdemeanor affidavits, by computer or electronic means if the ticket or affidavit conforms in all substantive respects, including layout and content, as provided under subsections (2) or (3)(b) of this section. The provisions of subsection (4) of this section requiring tickets bound in book form do not apply to a ticket that is produced by computer or electronic means. Information concerning tickets produced by computer or electronic means shall be available for public inspection in substantially the same manner as provided for the uniform tickets described in subsection (2) of this section.

(b) The defendant shall be provided with a paper copy of the ticket. A law enforcement officer who files a ticket or misdemeanor affidavit electronically shall be considered to have certified, signed and sworn to the ticket or misdemeanor affidavit and has the same rights, responsibilities and liabilities as with all other tickets or affidavits issued pursuant to this section.

HISTORY: Codes, 1942, § 8285.5; Laws, 1958, ch. 260, §§ 1-7; Laws, 1982, ch. 423, § 13; Laws, 1982, ch. 464; Laws, 1984, ch. 352; Laws, 1985, ch. 363, § 3; Laws, 1991, ch. 480, § 3; Laws, 2003, ch. 550, § 1; Laws, 2009, ch. 376, § 1; Laws, 2009, ch. 481, § 1; Laws, 2009, ch. 566, § 1; Laws, 2011, ch. 342, § 1; Laws, 2012, ch. 464, § 1; Laws, 2012, ch. 550, § 1; Laws, 2013, ch. 472, § 1; Laws, 2016, ch. 504, § 1, eff from and after passage (approved May 13, 2016).

Amendment Notes — The 2016 amendment, in the first sentence of (8)(a), inserted "and general misdemeanor affidavits" and "or affidavit"; and in (8)(b), inserted "or misdemeanor affidavit" twice and "or affidavits."

JUDICIAL DECISIONS

1. In general.

Town provided defendant with charging instruments because the two traffic tickets a police officer issued to defendant met the requirements established by the statute; in addition, the town supplemented its discovery disclosures and explicitly informed defendant that he was charged with operating a motor vehicle without a valid driver's license and failing to main-

tain or provide proof of insurance. Caissie v. State, 254 So. 3d 849, 2018 Miss. App. LEXIS 110 (Miss. Ct. App.), cert. denied, 254 So. 3d 170, 2018 Miss. LEXIS 410 (Miss. 2018), cert. denied, — U.S. —, 140 S. Ct. 100, 205 L. Ed. 2d 36, 2019 U.S. LEXIS 4809 (U.S. 2019).

OPINIONS OF THE ATTORNEY GENERAL

The department of public safety of a community hospital does not have authority to issue traffic citations on the public streets surrounding the hospital or to persons operating a motor vehicle on the hospital's premises. Castle, Nov. 14, 2005, A.G. Op. 05-0498.

§ 63-9-31. Additional surcharge for traffic violations to fund automation of citations issued by Highway Safety Patrol and wireless radio communications programs; funding of agency expenses; deposit of monies into State General Fund.

(1) In addition to any other monetary penalties and other penalties imposed by law, any county, municipality or the Pearl River Valley Water Supply District Patrol which participates in a wireless radio communications program approved by the applicable governing authorities may assess an additional surcharge in an amount not to exceed Ten Dollars ($10.00) on each person upon whom a court imposes a fine or other penalty for each violation of Title 63, Mississippi Code of 1972, except offenses relating to vehicular parking or registration. On all citations issued by Mississippi Highway Safety Patrol officers, a surcharge in the amount of Ten Dollars ($10.00) shall be collected by the court and deposited as provided in subsection (2) of this section. The proceeds from the surcharge on citations issued by county and municipal law enforcement officers or the Pearl River Valley Water Supply District Patrol may be used by a county or municipality only to fund that county's or municipality's or the Pearl River Valley Water Supply District Patrol's participation in the wireless radio communications program by funding public safety wireless communications systems and related computer and communications equipment. The proceeds from the surcharge on citations issued by Mississippi Highway Safety Patrol officers shall be used as provided in subsection (2) of this section. All proceeds from the surcharge imposed by this subsection shall be deposited into a special fund in the Department of Public Safety's Office of Public Safety Planning. The Office of Public Safety Planning shall promulgate rules and procedures relating to the administration of the special fund and the disbursement of monies in the fund to participating governmental entities. The maximum amount that a governmental entity may receive from the special fund shall be an amount equal to the deposits made into the fund by that entity, less one percent (1%) to be retained by the Office of Public Safety Planning to defray the costs of administering the special fund. Interest earned on the special fund shall remain in the fund and shall be used by the Office of Public Safety Planning to further defray the costs of administering the special fund.

(2) Deposits into the special fund resulting from citations issued by the Mississippi Highway Safety Patrol shall be utilized as follows: Fifty percent (50%) of the deposits into the special fund shall be used to automate the citations issued by Mississippi Highway Safety Patrol officers (including the transmittal of citations to the justice court, retrieval of the disposition from the justice court, and updating the driver's records) and fifty percent (50%) of the deposits into the special fund shall be used for the purpose of funding wireless communications and related computer equipment and computer software, subject to the approval of the Mississippi Department of Information Technology Services.

(3) Approval of a wireless radio communications program must be given by the applicable governing authorities when:

(a) The program includes the sharing of support facilities including, but not limited to, towers, shelters and microwave by participating entities; or

(b) The program includes the establishment of a mutual aid system using common radio frequency channels between participating entities; or

(c) The program sets forth a feasible methodology that utilizes the radio frequency spectrum in an efficient manner.

(4) Participating counties, municipalities, the Pearl River Valley Water Supply District Patrol and the Mississippi Highway Safety Patrol must provide notification of facilities available for interoperability to the Mississippi Department of Information Technology Services annually.

(5) Counties and municipalities and the Pearl River Valley Water Supply District Patrol participating in a wireless radio communications program and the Mississippi Highway Safety Patrol must comply with competitive bidding requirements prescribed in Section 31-7-13 and are encouraged to utilize an open architecture, nonproprietary system.

(6) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(7) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

HISTORY: Laws, 2001, ch. 569, § 12; Laws, 2002, ch. 486, § 1; Laws, 2004, ch. 441, § 1; Laws, 2006, ch. 311, § 1; Laws, 2008, ch. 522, § 1; Laws, 2016, ch. 459, § 17, eff from and after July 1, 2016.

Editor's Notes — Laws of 2016, ch. 459, § 1, codified as § 27-104-201, provides: "SECTION 1. This act shall be known and may be cited as the 'Mississippi Budget Transparency and Simplification Act of 2016.' "

Amendment Notes — The 2016 amendment added (6) and (7).

Cross References — Prohibition against one state agency charging another state agency fees, etc., for services or resources received, see § 27-104-203.

Defrayal of expenses of certain state agencies by appropriation of Legislature from General Fund, see § 27-104-205.

CHAPTER 11.

IMPLIED CONSENT LAW

Sec.

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§ 63-11-5. Implied consent to chemical tests; administration of tests; warnings; form of traffic tickets, citations or affidavits; advice regarding right to request legal or medical assistance; rules and regulations.

(1)(a) Any person who operates a motor vehicle upon the public highways, public roads and streets of this state shall be deemed to have given his consent, subject to the provisions of this chapter, to a chemical test or tests of his breath, blood or urine for the purpose of determining alcohol concentration. A person shall give his consent to a chemical test or tests of his breath, blood or urine for the purpose of determining the presence in his body of any other substance which would impair a person's ability to operate a motor vehicle.

(b) The test or tests shall be administered at the direction of any authorized officer, when such officer has reasonable grounds and probable cause to believe that the person was driving or had under his actual physical control a motor vehicle upon the public streets or highways of this state while under the influence of intoxicating liquor or any other substance which had impaired such person's ability to operate a motor vehicle.

(2)(a) A breath analysis test must be administered by a person who has met all the educational and training requirements of the appropriate course of study prescribed by the Board on Law Enforcement Officers Standards and Training; however, sheriffs and elected chiefs of police are exempt from the educational and training requirement. A breath analysis test must not be given to any person within fifteen (15) minutes of consumption of any substance by mouth.

(b) For purposes of this section, the term "authorized officer" means any highway patrol officer, sheriff or his duly commissioned deputies, police officer in any incorporated municipality, national park ranger, officer of a state-supported institution of higher learning campus police force if such officer is exercising this authority in regard to a violation that occurred on campus property, or security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978 if such officer is exercising this authority in regard to a violation that occurred within the limits of the Pearl River Valley Water Supply District.

(3) If the officer has reasonable grounds and probable cause to believe such person to have been driving a motor vehicle upon the public highways, public roads, and streets of this state while under the influence of intoxicating liquor or any other substance that has impaired the person's ability to operate a motor vehicle, the officer shall inform the person that his failure to submit to such chemical test or tests of his breath, blood or urine shall result in the suspension of his privilege to operate a motor vehicle upon the public streets and highways of this state for a period of ninety (90) days if the person has not previously been convicted of a violation of Section 63-11-30, or, for a period of one (1) year if the person has a prior conviction under Section 63-11-30.

(4) The traffic ticket, citation or affidavit issued to a person arrested for a violation of this chapter shall conform to the requirements of Section 63-9-21(3)(b), and, if filed electronically, shall conform to Section 63-9-21(8).

(5) Any person arrested under the provisions of this chapter shall be informed that he has the right to telephone for the purpose of requesting legal or medical assistance immediately after being booked for a violation under this chapter.

(6) The Commissioner of Public Safety and the Mississippi Forensics Laboratory created pursuant to Section 45-1-17 are authorized to adopt procedures, rules and regulations applicable to the Implied Consent Law.

HISTORY: Codes, 1942, § 8175-09; Laws, 1971, ch. 515, § 9; Laws, 1981, ch. 491, § 1; Laws, 1983, ch. 466, § 2; Laws, 1988, ch. 568, § 1; Laws, 1991, ch. 480, § 4; Laws, 1991, ch. 577, § 1; Laws, 1992, ch. 525, § 1; Laws, 1993, ch. 354, § 1; Laws, 1996, ch. 527, § 4; Laws, 1998, ch. 551, § 1; Laws, 2012, ch. 550, § 2; Laws, 2015, ch. 452, § 13; Laws, 2016, ch. 376, § 1, eff from and after July 1, 2016; Laws, 2018, ch. 447, § 4, eff from and after July 1, 2020.

Amendment Notes — The 2015 amendment substituted "Mississippi Forensics Laboratory" for "State Crime Laboratory" in (5).

The 2016 amendments divided former (1) into (1)(a), (b) and (c) and added (d); in (1)(b), substituted "authorized officer" for "highway patrol officer" and deleted "any sheriff or his duly commissioned deputies, any police officer in any incorporated municipality, any national park ranger, any officer of a state-supported institution of higher learning campus police force if such officer is exercising this authority in regard to a violation that occurred on campus property, or any security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978 if such officer is exercising this authority in regard to a violation that occurred within the limits of the Pearl River Valley Water Supply District" thereafter; and deleted "hereby" preceding "authorized" and deleted "from and after the passage of this section" thereafter in (5).

The 2018 amendment, effective July 1, 2020, inserted "blood or urine" in the first sentence of (1)(a); rewrote former (1)(c), which read: "No such test shall be administered by any person who has not met all the educational and training requirements of the appropriate course of study prescribed by the Board on Law Enforcement Officers Standards and Training; provided, however, that sheriffs and elected chiefs of police shall be exempt from such educational and training requirement. No such tests shall be given by any officer or any agency to any person within fifteen (15) minutes of consumption of any substance by mouth" and redesignated it (2)(a), redesignated former (1)(d) as (2)(b) and former (2) through (5) as present (3) through (6); substituted "this section" for "this subsection (1)" in (2)(b); and in (3), inserted "or any other substance...operate a motor vehicle," and "blood or urine," substituted "if the person has a prior conviction under" for "in the event of any previous conviction of such person under."

JUDICIAL DECISIONS

ANALYSIS

4. Mandatory pre-test observation.
6. Jury instructions.

4. Mandatory pre-test observation.

Defendant's breathalyzer tests were admissible because (1) an officer testified defendant was observed for at least 20 minutes before the test was administered, and (2) any dispute about the officer's testimony went to weight and credibility, not admissibility. Prince v. State, 225 So. 3d 545, 2017 Miss. App. LEXIS 289 (Miss. Ct. App. 2017).

Defendant's conviction for driving under the influence did not deprive defendant of a protected property right when an officer allegedly did not observe defendant for the required 20-minute period before administering a breath test because (1) it was not error to find defendant was observed for the mandatory period, and (2) defendant had no protected property right in defendant's driving privilege. Gore v. State, 168 So. 3d 1097, 2013 Miss. App. LEXIS 842 (Miss. Ct. App. 2013), cert. denied, 146 So. 3d 981, 2014 Miss. LEXIS 450 (Miss. 2014).

It was not error to accept an officer's testimony that the officer observed defendant for the required 20 minutes before administering a breath test because (1) the officer's conversation with defendant's wife took no significant amount of time, and (2) defendant was in the officer's presence and observed by other officers. Gore v. State, 168 So. 3d 1097, 2013 Miss. App. LEXIS 842 (Miss. Ct. App. 2013), cert. denied, 146 So. 3d 981, 2014 Miss. LEXIS 450 (Miss. 2014).

6. Jury instructions.

Trial court did not err in giving its instruction on defendant's refusal to submit to a breath test as the instruction tracked the language of Miss. Code Ann. § 63-11-5 (Supp. 2012) and did not violate defendant's U.S. Const. amend. V prosecution against self-incrimination. Merritt v. State, 127 So. 3d 1150, 2013 Miss. App. LEXIS 431 (Miss. Ct. App. 2013), cert.

denied, 131 So. 3d 577, 2014 Miss. LEXIS 14 (Miss. 2014).

§ 63-11-7. Authorization of blood test for dead or unconscious accident victims; use of test results.

JUDICIAL DECISIONS

2. Admissibility of test results.

Although defendant argued the circuit court committed reversible error when it admitted blood-sample test results into evidence in violation of the statutory privileges afforded in the Implied Consent Act, defendant's constitutional challenge was moot, as his blood was not taken pursuant to the Implied Consent Act. Whitaker v. State, 146 So. 3d 333, 2014 Miss. LEXIS 321 (Miss. 2014), cert. denied, 574 U.S. 1123, 135 S. Ct. 1165, 190 L. Ed. 2d 915, 2015 U.S. LEXIS 707 (U.S. 2015).

§ 63-11-8. Testing of motor vehicle operator involved in accident resulting in death.

(1) The operator of any motor vehicle involved in an accident that results in a death shall be tested for the purpose of determining the alcohol content or drug content of such operator's blood, breath or urine. Any blood withdrawal required by this section shall be administered by any qualified person and shall be administered within two (2) hours after such accident, if possible. The exact time of the accident, to the extent possible, and the exact time of the blood withdrawal shall be recorded.

(2) If any investigating law enforcement officer has reasonable grounds to believe that a person is the operator of a motor vehicle involved in an accident that has resulted in a death, it shall be such officer's duty to see that a chemical test is administered as required by this section.

(3) The results of a test administered pursuant to this section may be used as evidence in any court or administrative hearing without the consent of the person so tested.

(4) No person may refuse to submit to a chemical test required under the provisions of this section.

(5) Analysis of blood or urine to determine alcohol or drug content pursuant to this section shall be conducted by the Mississippi Forensics Laboratory or a laboratory whose methods and procedures have been approved by the Mississippi Forensics Laboratory.

HISTORY: Laws, 1995, ch. 540, § 4; Laws, 1996, ch. 527, § 5; Laws, 2015, ch. 452, § 14, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment twice substituted "Mississippi Forensics Laboratory" for "Mississippi Crime Laboratory' in (5).

JUDICIAL DECISIONS

3. Time for test.

Defendant's conviction of driving under the influence causing death was appropriate because there was no evidence that police officers deliberately delayed defendant's blood alcohol test, as they had acted immediately in obtaining a subpoena and traveling to Memphis to get a blood sample from defendant, and there was no evidence that defendant was prejudiced by the delay. Moreover, while probable cause existed to test defendant, probable cause did not exist to test the other driver. Andino v. State, 125 So. 3d 700, 2013 Miss. App. LEXIS 715 (Miss. Ct. App. 2013).

§ 63-11-9. Administration of blood test under § 63-11-7.

JUDICIAL DECISIONS

1. Admissibility of test.

Although defendant argued that the State did not provide evidence that a nurse was qualified to draw defendant's blood pursuant to this section, this issue could be dismissed because the Implied Consent Act was not the basis for obtaining the blood sample. Whitaker v. State, 146 So. 3d 333, 2014 Miss. LEXIS 321 (Miss. 2014), cert. denied, 574 U.S. 1123, 135 S. Ct. 1165, 190 L. Ed. 2d 915, 2015 U.S. LEXIS 707 (U.S. 2015).

§ 63-11-13. Right of accused to have test administered by person of his choice; effect of failure to obtain additional test.

The person tested may, at his own expense, have a physician, registered nurse, clinical laboratory technologist or clinical laboratory technician or any other qualified person of his choosing administer a test, approved by the Mississippi Forensics Laboratory created pursuant to Section 45-1-17, in addition to any other test, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by such arrested person shall not preclude the admissibility in evidence of the test taken at the direction of a law enforcement officer.

HISTORY: Codes, 1942, § 8175-18; Laws, 1971, ch. 515, § 18; Laws, 1981, ch. 491, § 2; Laws, 2015, ch. 452, § 15, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment substituted "Mississippi Forensics Laboratory" for "state crime laboratory" preceding "Laboratory created pursuant to Section 45-1-17" in the first sentence.

§ 63-11-19. Requirements as to methods of testing and qualifications of test administrators; certification of administrators; testing and certification of accuracy of methods, machines or devices.

A chemical analysis of the person's breath, blood or urine, to be considered valid under the provisions of this section, shall have been performed according to methods approved by the Mississippi Forensics Laboratory created pursuant to Section 45-1-17 and the Commissioner of Public Safety and performed by an individual possessing a valid permit issued by the Mississippi Forensics Laboratory for making such analysis. The Mississippi Forensics Laboratory and the Commissioner of Public Safety are authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the Mississippi Forensics Laboratory. The Mississippi Forensics Laboratory shall not approve the permit required herein for any law enforcement officer other than a member of the State Highway Patrol, a sheriff or his deputies, a city policeman, an officer of a state-supported institution of higher learning campus police force, a security officer appointed and commissioned pursuant to the Pearl River Valley Water Supply District Security Officer Law of 1978, a national park ranger, a national park ranger technician, a military policeman stationed at a United States military base located within this state other than a military policeman of the Army or Air National Guard or of Reserve Units of the Army, Air Force, Navy or Marine Corps, a marine law enforcement officer employed by the Department of Marine Resources, or a conservation officer employed by the Mississippi Department of Wildlife, Fisheries and Parks. The permit given a marine law enforcement officer shall authorize such officer to administer tests only for violations of Sections 59-23-1 through 59-23-7. The permit given a conservation officer shall authorize such officer to administer tests only for violations of Sections 59-23-1 through 59-23-7 and for hunting related incidents resulting in injury or death to any person by discharge of a weapon as provided under Section 49-4-31.

The Mississippi Forensics Laboratory shall make periodic, but not less frequently than quarterly, tests of the methods, machines or devices used in making chemical analysis of a person's breath as shall be necessary to ensure the accuracy thereof, and shall issue its certificate to verify the accuracy of the same.

HISTORY: Codes, 1942, § 8175-16; Laws, 1971, ch. 515, § 16; Laws, 1978, ch. 526, § 1; Laws, 1981, ch. 491, § 3; Laws, 1988, ch. 568, § 2; Laws, 1991, ch. 577, § 2; Laws, 1995, ch. 620, § 5; Laws, 1999, ch. 585, § 6; Laws, 2006, ch. 553, § 5; Laws, 2015, ch. 452, § 16, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment substituted "Mississippi Forensics Laboratory" for "State Crime Laboratory" throughout the section.

JUDICIAL DECISIONS

2. Qualifications of administrator and methods of administration.

County court did not err in admitting breath-test results because the State met the requirements of the statute during a policy officer's testimony; the officer testified that he waited at least twenty minutes before administering the breath test to defendant, and a two-year permit issued by the Mississippi Department of Public Safety to the officer authorized him to conduct analyses of breath specimens to determine alcohol content. Bratcher v. State, 193 So. 3d 639, 2015 Miss. App.

LEXIS 539 (Miss. Ct. App. 2015), cert. denied, 202 So. 3d 1268, 2016 Miss. LEXIS 268 (Miss. 2016).

3. —Particular circumstances.

Defendant was properly convicted of driving under the influence because he admitted to drinking, had red glassy eyes, smelled of alcohol, and was unsteady on his feet, and the proper foundation was laid to admit the breathalyzer test results into evidence where the trooper was certified to give the test, the machine itself was calibrated, and there was nothing in the record to suggest that the results of the test were invalid because the machine was not calibrated properly. Miller v. State, 152 So. 3d 1184, 2014 Miss. App. LEXIS 690 (Miss. Ct. App. 2014).

§ 63-11-21. Actions by law enforcement officer upon refusal of driver to submit to test generally.

If a person refuses upon the request of a law enforcement officer to submit to a chemical test of his breath designated by the law enforcement agency as provided in Section 63-11-5, none shall be given, but the officer shall at that point demand the driver's license of the person, who shall deliver his driver's license into the hands of the officer. If a person refuses to submit to a chemical test under the provisions of this chapter, the person shall be informed by the law enforcement officer that the refusal to submit to the test shall subject him to suspension of the privilege to operate a motor vehicle. The officer shall give the driver a receipt for his license on forms prescribed and furnished by the Commissioner of Public Safety. The officer shall forward the driver's license together with a sworn report to the Commissioner of Public Safety stating that he had reasonable grounds and probable cause to believe the person had been operating a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor or any other substance which may impair a person's mental or physical ability, stating the grounds, and that the person had refused to submit to the chemical test of his breath upon request of the law enforcement officer.

HISTORY: Codes, 1942, § 8175-11; Laws, 1971, ch. 515, § 11; Laws, 1981, ch. 491, § 4; Laws, 1983, ch. 466, § 3; Laws, 1991, ch. 480, § 5; Laws, 1996, ch. 527, § 8; Laws, 2013, ch. 489, § 6; Laws, 2016, ch. 503, § 3, eff from and after Oct. 1, 2016.

Amendment Notes — The 2016 amendment, effective October 1, 2016, substituted "subject him to suspension of the privilege to operate a motor vehicle" for "subject him to punishment consistent with the penalties prescribed for conviction under Section 63-11-30 and Section 63-11-31" at the end of the second sentence; and in the last sentence, substituted "person had been driving a motor vehicle" for "person had been operating a motor vehicle" and made minor stylistic changes.

§ 63-11-23. Review of report of law enforcement officer by Commissioner of Public Safety; notice of suspension; seizure of license where test indicates blood alcohol concentration above specified level; temporary permit to drive; denial of permit; representation of state in proceedings.

(1) **Administrative license suspension for test refusal.** The Commissioner of Public Safety, or his authorized agent, shall review the sworn report by a law enforcement officer as provided in Section 63-11-21.

(a) If upon review the Commissioner of Public Safety, or his authorized agent, finds (i) that the law enforcement officer had reasonable grounds and probable cause to believe the person had been operating a motor vehicle upon the public highways, public roads and streets of this state while under the influence of intoxicating liquor or any other substance that may impair a person's mental or physical ability; (ii) that the person refused to submit to the chemical test of the person's breath, blood or urine upon request of the officer; and (iii) that the person was informed that his license and driving privileges would be suspended or denied if he refused to submit to the chemical test of his breath, blood or urine, then the Commissioner of Public Safety, or his authorized agent, shall give notice to the licensee that his license or permit to drive, or any nonresident operating privilege, shall be suspended thirty (30) days after the date of the notice for a period of ninety (90) days if the person has not previously been convicted of or nonadjudicated for a violation of Section 63-11-30, or, for a period of one (1) year if the person was previously convicted or nonadjudicated under Section 63-11-30. If the commissioner or his authorized agent determines that the license or permit should not be suspended, he shall return the license or permit to the licensee.

(b) The notice of suspension shall be in writing and conform to Section 63-1-52.

(c) A person may continue to drive on either an interlock-restricted license or under a drug-testing program if so ordered by a court in the course of a criminal proceeding for a violation of Section 63-11-30.

(2) **Extension or suspension of privilege to drive; request for trial.** (a) If the chemical testing of a person's breath indicates the blood alcohol concentration was eight one-hundredths percent (.08%) or more for persons who are above the legal age to purchase alcoholic beverages under state law, or two one-hundredths percent (.02%) or more for persons who are below the legal age to purchase alcoholic beverages under state law, based upon grams of alcohol per one hundred (100) milliliters of blood or grams of alcohol per two hundred ten (210) liters of breath as shown by a chemical analysis of the person's blood, breath, or urine, the arresting officer shall seize the license and give the driver a receipt for his license on forms prescribed by the Commissioner of Public Safety and shall promptly forward the license together with a sworn report to the Commissioner of Public Safety. The receipt given a person

shall be valid as a permit to operate a motor vehicle for thirty (30) days in order that the defendant may be processed through the court having original jurisdiction and a final disposition had.

(b) If the defendant requests a trial within thirty (30) days and trial is not commenced within thirty (30) days, then the court shall determine if the delay in the trial is the fault of the defendant or his counsel. If the court finds that it is not the fault of the defendant or his counsel, then the court shall order the defendant's privileges to operate a motor vehicle to be extended until the defendant is convicted upon final order of the court.

(c) If a receipt or permit to drive issued under this subsection expires without a trial having been requested as provided in this subsection, then the Commissioner of Public Safety, or his authorized agent, shall suspend the license or permit to drive or any nonresident operating privilege for the applicable period of time as provided in subsection (1) of this section.

(3) **Offenders driving without a license.** If the person is a resident without a license or permit to operate a motor vehicle in this state, the Commissioner of Public Safety, or his authorized agent, shall deny to the person the issuance of a license or permit for a period of one (1) year beginning thirty (30) days after the date of notice of the suspension.

(4) **Appeal.** It shall be the duty of the municipal prosecuting attorney, county prosecuting attorney, an attorney employed under the provisions of Section 19-3-49, or if there is not a prosecuting attorney for the municipality or county, the duty of the district attorney to represent the state in any hearing on a de novo appeal held under the provisions of Section 63-11-25, Section 63-11-37 or Section 63-11-30.

(5) **Suspension subsequent to conviction.** Unless the person obtains an interlock-restricted license or the court orders the person to exercise the privilege to operate a motor vehicle only under an interlock-restricted license or while participating in a court-ordered drug-testing program, thirty (30) days after receipt of the court abstract documenting a person's conviction under Section 63-11-30, the Department of Public Safety shall suspend the driver's license and privileges of the person to operate a motor vehicle as follows:

(a) When sentenced under Section 63-11-30(2):

(i) For a first offense: one hundred twenty (120) days;

(ii) For a second offense: one (1) year;

(iii) For a third offense: for the full period of the person's sentence; upon release from incarceration, the person will be eligible for only an interlock-restricted license for three (3) years;

(iv) For a fourth or subsequent offense: for the full period of the person's sentence; upon release from incarceration, the person will be eligible for only an interlock-restricted license for ten (10) years and will further be subject to court-ordered drug testing if the original offense involved operating a motor vehicle under the influence of a drug other than alcohol.

(b) When sentenced under Section 63-11-30(3) (Zero Tolerance for Minors):

(i) For a first offense: one hundred twenty (120) days;

(ii) For a second offense: one (1) year;

(iii) For a third offense occurring within five (5) years, suspend or deny the driving privilege for two (2) years or until the person reaches the age of twenty-one (21), whichever is longer.

(6) **Suspensions.** (a) Notices of suspension given under this section shall be in writing and conform to Section 63-1-52.

(b) Suspensions under this and any other chapter shall run consecutively and not concurrently.

(7) **License reinstatement.** A person is eligible for an unrestricted license when the person has completed an alcohol safety education program as provided in Section 63-11-32, has satisfied all other conditions of law and of the person's sentence or nonadjudication, and is not otherwise barred from obtaining an unrestricted license.

HISTORY: Codes, 1942, § 8175-12; Laws, 1971, ch. 515, § 12; Laws, 1981, ch. 491, § 5; Laws, 1983, ch. 466, § 4; Laws, 1989, ch. 482, § 25; Laws, 1991, ch. 412, § 2; Laws, 1996, ch. 527, § 9; Laws, 1998, ch. 505, § 1; Laws, 2000, ch. 542, § 2; Laws, 2002, ch. 367, § 2; Laws, 2013, ch. 489, § 7; Laws, 2014, ch. 493, § 4; Laws, 2016, ch. 503, § 4, eff from and after Oct. 1, 2016; Laws, 2018, ch. 447, § 5, eff from and after July 1, 2020.

Amendment Notes — The 2014 amendment deleted (5) regarding nonapplicability of section to nonadjudicated persons.

The 2016 amendment, effective October 1, 2016, added subsection headings in (1) through (4); in (1), designated the former second through last sentences of the former first paragraph (a) and the former second paragraph (b); redesignated former (1)(a) through (c) as (a)(i) through (iii); in present (a), substituted "operating a motor vehicle" for "driving a motor vehicle" in (i), inserted "chemical" in (ii), in (iii), inserted "unless the person obtains an interlock-restricted license," "or nonadjudicated for" and "was previously convicted or nonadjudicated," inserted "or permit" in the last sentence, and made minor stylistic changes throughout; rewrote present (b), which read: "The notice of suspension shall be in writing and given in the manner provided in Section 63-1-52(2)(a)"; in the last sentence of (2)(b), substituted "privileges to operate a motor vehicle to be" for "driving privileges to be" and added "upon final order of the court" at the end; in (4), inserted "municipal prosecuting attorney," "municipality or," and "on a de novo appeal," substituted "Section 63-11-25, Section 63-11-37 or Section 63-11-30" for "Section 63-11-25, under the provisions of Section 63-11-37(2) or under the provisions of Section 63-11-30(2)(a)"; and added (5) through (7).

The 2018 amendment, effective July 1, 2020, in (1), substituted "that the person refused" for "that he refused," inserted "of the person's breath, blood or urine" and "of his breath, blood or urine" in (a), and added (c); and in (5), inserted "or while participating in a court-ordered drug-testing program" in the introductory paragraph, and added "and will further be subject to...influence of a drug other than alcohol" in (a)(iv).

§ 63-11-30. Operating a vehicle while under influence of alcohol or other drugs; penalties; zero tolerance for minors; DUI test refusal; aggravated DUI; DUI child endangerment; expunction; nonadjudication.

(1) It is unlawful for a person to drive or otherwise operate a vehicle within this state if the person:

(a) Is under the influence of intoxicating liquor;

(b) Is under the influence of any other substance that has impaired the person's ability to operate a motor vehicle;

(c) Is under the influence of any drug or controlled substance, the possession of which is unlawful under the Mississippi Controlled Substances Law; or

(d) Has an alcohol concentration in the person's blood, based upon grams of alcohol per one hundred (100) milliliters of blood, or grams of alcohol per two hundred ten (210) liters of breath, as shown by a chemical analysis of the person's breath, blood or urine administered as authorized by this chapter, of:

(i) Eight one-hundredths percent (.08%) or more for a person who is above the legal age to purchase alcoholic beverages under state law;

(ii) Two one-hundredths percent (.02%) or more for a person who is below the legal age to purchase alcoholic beverages under state law; or

(iii) Four one-hundredths percent (.04%) or more for a person operating a commercial motor vehicle.

(2) Except as otherwise provided in subsection (3) of this section (Zero Tolerance for Minors):

(a) **First offense DUI.**

(i) Upon conviction of any person for the first offense of violating subsection (1) of this section where chemical tests under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00), or imprisoned for not more than forty-eight (48) hours in jail, or both; the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of sentencing. The court may substitute attendance at a victim impact panel instead of forty-eight (48) hours in jail.

(ii) Suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) A qualifying first offense may be nonadjudicated by the court under subsection (14) of this section. The holder of a commercial driver's license or a commercial learning permit at the time of the offense is ineligible for nonadjudication.

(iv) Eligibility for an interlock-restricted license is governed by Section 63-11-31 and suspension of regular driving privileges is governed by Section 63-11-23.

(b) **Second offense DUI.**

(i) Upon any second conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be guilty of a misdemeanor, fined not less than Six Hundred Dollars ($600.00) nor more than One Thousand Five Hundred Dollars ($1,500.00), shall be imprisoned not less than five (5) days nor more than six (6) months and sentenced to community service work for not less than ten (10) days nor more than six (6) months. The minimum penalties shall not be suspended or reduced by the court and no prosecutor shall offer any suspension or sentence reduction as part of a plea bargain.

(ii) Suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) Eligibility for an interlock-restricted license is governed by Section 63-11-31 and suspension of regular driving privileges is governed by Section 63-11-23.

(c) **Third offense DUI.**

(i) For a third conviction of a person for violating subsection (1) of this section, the offenses being committed within a period of five (5) years, the person shall be guilty of a felony and fined not less than Two Thousand Dollars ($2,000.00) nor more than Five Thousand Dollars ($5,000.00), and shall serve not less than one (1) year nor more than five (5) years in the custody of the Department of Corrections. For any offense that does not result in serious injury or death to any person, the sentence of incarceration may be served in the county jail rather than in the State Penitentiary at the discretion of the circuit court judge. The minimum penalties shall not be suspended or reduced by the court and no prosecutor shall offer any suspension or sentence reduction as part of a plea bargain.

(ii) The suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) The suspension of regular driving privileges is governed by Section 63-11-23.

(d) **Fourth and subsequent offense DUI.**

(i) For any fourth or subsequent conviction of a violation of subsection (1) of this section, without regard to the time period within which the violations occurred, the person shall be guilty of a felony and fined not less than Three Thousand Dollars ($3,000.00) nor more than Ten Thousand Dollars ($10,000.00), and shall serve not less than two (2) years nor more than ten (10) years in the custody of the Department of Corrections.

(ii) The suspension of commercial driving privileges is governed by Section 63-1-216.

(iii) A person convicted of a fourth or subsequent offense is ineligible to exercise the privilege to operate a motor vehicle that is not equipped with an ignition-interlock device for ten (10) years.

(e) Any person convicted of a second or subsequent violation of subsection (1) of this section shall receive an in-depth diagnostic assessment, and if as a result of the assessment is determined to be in need of treatment for alcohol or drug abuse, the person must successfully complete treatment at a program site certified by the Department of Mental Health. Each person who receives a diagnostic assessment shall pay a fee representing the cost of the assessment. Each person who participates in a treatment program shall pay a fee representing the cost of treatment.

(f) The use of ignition-interlock devices is governed by Section 63-11-31.

(3) **Zero Tolerance for Minors.**

(a) This subsection shall be known and may be cited as Zero Tolerance for Minors. The provisions of this subsection shall apply only when a person under the age of twenty-one (21) years has a blood alcohol concentration of two one-hundredths percent (.02%) or more, but lower than eight one-hundredths percent (.08%). If the person's blood alcohol concentration is eight one-hundredths percent (.08%) or more, the provisions of subsection (2) shall apply.

(b)(i) A person under the age of twenty-one (21) is eligible for nonadjudication of a qualifying first offense by the court pursuant to subsection (14) of this section.

(ii) Upon conviction of any person under the age of twenty-one (21) years for the first offense of violating subsection (1) of this section where chemical tests provided for under Section 63-11-5 were given, or where chemical test results are not available, the person shall be fined Two Hundred Fifty Dollars ($250.00); the court shall order the person to attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months. The court may also require attendance at a victim impact panel.

(c) A person under the age of twenty-one (21) years who is convicted of a second violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than Five Hundred Dollars ($500.00).

(d) A person under the age of twenty-one (21) years who is convicted of a third or subsequent violation of subsection (1) of this section, the offenses being committed within a period of five (5) years, shall be fined not more than One Thousand Dollars ($1,000.00).

(e) License suspension is governed by Section 63-11-23 and ignition interlock is governed by Section 63-11-31.

(f) Any person under the age of twenty-one (21) years convicted of a third or subsequent violation of subsection (1) of this section must complete treatment of an alcohol or drug abuse program at a site certified by the Department of Mental Health.

(4) **DUI test refusal.** In addition to the other penalties provided in this section, every person refusing a law enforcement officer's request to submit to a chemical test of the person's breath as provided in this chapter, or who was unconscious at the time of a chemical test and refused to consent to the introduction of the results of the test in any prosecution, shall suffer an additional administrative suspension of driving privileges as set forth in Section 63-11-23.

(5) **Aggravated DUI.**

(a) Every person who operates any motor vehicle in violation of the provisions of subsection (1) of this section and who in a negligent manner causes the death of another or mutilates, disfigures, permanently disables or destroys the tongue, eye, lip, nose or any other limb, organ or member of another shall, upon conviction, be guilty of a separate felony for each victim who suffers death, mutilation, disfigurement or other injury and shall be committed to the custody of the State Department of Corrections for a period of time of not less than five (5) years and not to exceed twenty-five (25) years for each death, mutilation, disfigurement or other injury, and the imprisonment for the second or each subsequent conviction, in the discretion of the court, shall commence either at the termination of the imprisonment for the preceding conviction or run concurrently with the preceding conviction. Any person charged with causing the death of another as described in this subsection shall be required to post bail before being released after arrest.

(b) A holder of a commercial driver's license who is convicted of operating a commercial motor vehicle with an alcohol concentration of eight one-hundreths percent (.08%) or more shall be guilty of a felony and shall be committed to the custody of the Department of Corrections for not less than two (2) years and not more than ten (10) years.

(c) The court shall order an ignition-interlock restriction on the offender's privilege to drive as a condition of probation or post-release supervision not to exceed five (5) years unless a longer restriction is required under other law. The ignition-interlock restriction shall not be applied to commercial license privileges until the driver serves the full disqualification period required by Section 63-1-216.

(6) **DUI citations.**

(a) Upon conviction of a violation of subsection (1) of this section, the trial judge shall sign in the place provided on the traffic ticket, citation or affidavit stating that the person arrested either employed an attorney or waived his right to an attorney after having been properly advised. If the person arrested employed an attorney, the name, address and telephone number of the attorney shall be written on the ticket, citation or affidavit. The court clerk must immediately send a copy of the traffic ticket, citation or affidavit, and any other pertinent documents concerning the conviction or other order of the court, to the Department of Public Safety as provided in Section 63-11-37.

(b) A copy of the traffic ticket, citation or affidavit and any other pertinent documents, having been attested as true and correct by the Commissioner of Public Safety, or his designee, shall be sufficient proof of the conviction for purposes of determining the enhanced penalty for any subsequent convictions of violations of subsection (1) of this section. The Department of Public Safety shall maintain a central database for verification of prior offenses and convictions.

(7) **Out-of-state prior convictions.** Convictions in another state, territory or possession of the United States, or under the law of a federally recognized Native American tribe, of violations for driving or operating a vehicle while under the influence of an intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle occurring within five (5) years before an offense shall be counted for the purposes of determining if a violation of subsection (1) of this section is a second, third, fourth or subsequent offense and the penalty that shall be imposed upon conviction for a violation of subsection (1) of this section.

(8) **Charging of subsequent offenses.**

(a) For the purposes of determining how to impose the sentence for a second, third, fourth or subsequent conviction under this section, the affidavit or indictment shall not be required to enumerate previous convictions. It shall only be necessary that the affidavit or indictment states the number of times that the defendant has been convicted and sentenced within the past five (5) years for a second or third offense, or without a time limitation for a fourth or subsequent offense, under this section to determine if an enhanced penalty shall be imposed. The amount of fine and imprisonment imposed in previous convictions shall not be considered in calculating offenses to determine a second, third, fourth or subsequent offense of this section.

(b) Before a defendant enters a plea of guilty to an offense under this section, law enforcement must submit certification to the prosecutor that the defendant's driving record, the confidential registry and National Crime Information Center record have been searched for all prior convictions, nonadjudications, pretrial diversions and arrests for driving or operating a vehicle while under the influence of an intoxicating liquor or while under the influence of any other substance that has impaired the person's ability to operate a motor vehicle. The results of the search must be included in the certification.

(9) **License eligibility for underage offenders.** A person who is under the legal age to obtain a license to operate a motor vehicle at the time of the offense and who is convicted under this section shall not be eligible to receive a driver's license until the person reaches the age of eighteen (18) years.

(10) **License suspensions and restrictions to run consecutively.** Suspension or restriction of driving privileges for any person convicted of or nonadjudicated for violations of subsection (1) of this section shall run consecutively to and not concurrently with any other administrative license suspension.

(11) **Ignition interlock.** If the court orders installation and use of an ignition-interlock device as provided in Section 63-11-31 for every vehicle operated by a person convicted or nonadjudicated under this section, each device shall be installed, maintained and removed as provided in Section 63-11-31.

(12) **DUI child endangerment.** A person over the age of twenty-one (21) who violates subsection (1) of this section while transporting in a motor vehicle a child under the age of sixteen (16) years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle. The offense of endangering a child by driving under the influence of alcohol or any other substance which has impaired the person's ability to operate a motor vehicle shall not be merged with an offense of violating subsection (1) of this section for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished as follows:

(a) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a first conviction shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars ($1,000.00) or shall be imprisoned for not more than twelve (12) months, or both;

(b) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a second conviction shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) or shall be imprisoned for one (1) year, or both;

(c) A person who commits a violation of this subsection which does not result in the serious injury or death of a child and which is a third or subsequent conviction shall be guilty of a felony and, upon conviction, shall be fined not less than Ten Thousand Dollars ($10,000.00) or shall be imprisoned for not less than one (1) year nor more than five (5) years, or both; and

(d) A person who commits a violation of this subsection which results in the serious injury or death of a child, without regard to whether the offense was a first, second, third or subsequent offense, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Ten Thousand Dollars ($10,000.00) and shall be imprisoned for not less than five (5) years nor more than twenty-five (25) years.

(13) **Expunction.**

(a) Any person convicted under subsection (2) or (3) of this section of a first offense of driving under the influence and who was not the holder of a commercial driver's license or a commercial learning permit at the time of the offense may petition the circuit court of the county in which the conviction was had for an order to expunge the record of the conviction at least five (5) years after successful completion of all terms and conditions of the sentence imposed for the conviction. Expunction under this subsection will only be available to a person:

(i) Who has successfully completed all terms and conditions of the sentence imposed for the conviction;

(ii) Who did not refuse to submit to a test of his blood or breath;

(iii) Whose blood alcohol concentration tested below sixteen one-hundredths percent (.16%) if test results are available;

(iv) Who has not been convicted of and does not have pending any other offense of driving under the influence;

(v) Who has provided the court with justification as to why the conviction should be expunged; and

(vi) Who has not previously had a nonadjudication or expunction of a violation of this section.

(b) A person is eligible for only one (1) expunction under this subsection, and the Department of Public Safety shall maintain a permanent confidential registry of all cases of expunction under this subsection for the sole purpose of determining a person's eligibility for expunction, for nonadjudication, or as a first offender under this section.

(c) The court in its order of expunction shall state in writing the justification for which the expunction was granted and forward the order to the Department of Public Safety within five (5) days of the entry of the order.

(14) **Nonadjudication.**

(a) For the purposes of this chapter, "nonadjudication" means that the court withholds adjudication of guilt and sentencing, either at the conclusion of a trial on the merits or upon the entry of a plea of guilt by a defendant, and places the defendant in a nonadjudication program conditioned upon the successful completion of the requirements imposed by the court under this subsection.

(b) A person is eligible for nonadjudication of an offense under this Section 63-11-30 only one (1) time under any provision of a law that authorizes nonadjudication and only for an offender:

(i) Who has successfully completed all terms and conditions imposed by the court after placement of the defendant in a nonadjudication program;

(ii) Who was not the holder of a commercial driver's license or a commercial learning permit at the time of the offense;

(iii) Who has not previously been convicted of and does not have pending any former or subsequent charges under this section; and

(iv) Who has provided the court with justification as to why nonadjudication is appropriate.

(c) Nonadjudication may be initiated upon the filing of a petition for nonadjudication or at any stage of the proceedings in the discretion of the court; the court may withhold adjudication of guilt, defer sentencing, and upon the agreement of the offender to participate in a nonadjudication program, enter an order imposing requirements on the offender for a period of court supervision before the order of nonadjudication is entered. Failure to successfully complete a nonadjudication program subjects the person to adjudication of the charges against him and to imposition of all penalties previously withheld due to entrance into a nonadjudication program. The court shall immediately inform the commissioner of the conviction as required in Section 63-11-37.

(i) The court shall order the person to:

1. Pay the nonadjudication fee imposed under Section 63-11-31 if applicable;

2. Pay all fines, penalties and assessments that would have been imposed for conviction;

3. Attend and complete an alcohol safety education program as provided in Section 63-11-32 within six (6) months of the date of the order;

4.a. If the court determines that the person violated this section with respect to alcohol or intoxicating liquor, the person must install an ignition-interlock device on every motor vehicle operated by the person, obtain an interlock-restricted license, and maintain that license for one hundred twenty (120) days or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person must not operate any vehicle.

b. If the court determines that the person violated this section by operating a vehicle when under the influence of a substance other than alcohol that has impaired the person's ability to operate a motor vehicle, including any drug or controlled substance which is unlawful to possess under the Mississippi Controlled Substances Law, the person must submit to a one-hundred-twenty-day period of a nonadjudication program that includes court-ordered drug testing at the person's own expense not less often than every thirty (30) days, during which time the person may drive if compliant with the terms of the program, or suffer a one-hundred-twenty-day suspension of the person's regular driver's license, during which time the person will not operate any vehicle.

(ii) Other conditions that may be imposed by the court include, but are not limited to, alcohol or drug screening, or both, proof that the person has not committed any other traffic violations while under court supervision, proof of immobilization or impoundment of vehicles owned by the offender if required, and attendance at a victim-impact panel.

(d) The court may enter an order of nonadjudication only if the court finds, after a hearing or after ex parte examination of reliable documentation of compliance, that the offender has successfully completed all conditions imposed by law and previous orders of the court. The court shall retain jurisdiction over cases involving nonadjudication for a period of not more than two (2) years.

(e)(i) The clerk shall immediately forward a record of every person placed in a nonadjudication program and of every nonadjudication order to the Department of Public Safety for inclusion in the permanent confidential registry of all cases that are nonadjudicated under this subsection (14).

(ii) Judges, clerks and prosecutors involved in the trial of implied consent violations and law enforcement officers involved in the issuance of citations for implied consent violations shall have secure online access to the confidential registry for the purpose of determining whether a person has previously been the subject of a nonadjudicated case and 1. is therefore ineligible for another nonadjudication; 2. is ineligible as a first offender for a violation of this section; or 3. is ineligible for expunction of a conviction of a violation of this section.

(iii) The Driver Services Bureau of the department shall have access to the confidential registry for the purpose of determining whether a person is eligible for a form of license not restricted to operating a vehicle equipped with an ignition-interlock device.

(iv) The Mississippi Alcohol Safety Education Program shall have secure online access to the confidential registry for research purposes only.

HISTORY: Laws, 1981, ch. 491, § 6; Laws, 1983, ch. 466, §§ 7, 13; Laws, 1989, ch. 565, § 1; Laws, 1991, ch. 480, § 6; Laws, 1992, ch. 500, § 1; Laws, 1994, ch. 340, § 4; Laws, 1995, ch. 540, § 1; Laws, 1996, ch. 527, § 11; Laws, 1998, ch. 505, § 2; Laws, 2000, ch. 542, § 3; Laws, 2002, ch. 367, § 1; Laws, 2004, ch. 503, § 1; Laws,

2007, ch. 438, § 1; Laws of 2012, ch. 510, § 1; Laws, 2013, ch. 489, § 1; Laws, 2014, ch. 493, § 1; Laws, 2015, ch. 478, § 2; Laws, 2016, ch. 503, § 5; Laws, 2017, ch. 428, § 1, eff from and after Oct. 1, 2017.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the last sentence of (5)(c) by substituting "ignition-interlock restriction" for "ignitions-interlock restriction." The Joint Committee ratified the correction at the August 15, 2017, meeting of the Committee.

Amendment Notes — The 2014 amendment rewrote the section to revise the use of ignition interlock and nonadjudication in implied consent violations.

The 2015 amendment substituted "Thirty (30)" for "Fifteen (15)" in the second sentence of (2)(a), the third sentence of (2)(b), the second sentence of (3)(b)(ii) and the second sentence of (3)(c); inserted "affidavit or" in the first and second sentences in (8); in (11), substituted "If the court orders" for "The court shall order" and added "the device shall be installed as provided in Section 63-11-31" at the end; in (14)(b), deleted "qualifying" preceding "first offense," added "under any provision of a law that authorizes nonadjudication" at the end and deleted the former last sentence, which defined a qualifying offense; added (14)(c)(i)(4)b; deleted (14)(c)(i)(5); inserted "previous orders of" and added the last sentence in (14)(d); added "clerks" preceding "and prosecutors" and added the last sentence in (14)(e).

The 2016 amendment, effective October 1, 2016, rewrote (2), (3)(b)(ii), (3)(c) through (e), (4) and (14); substituted "must complete" for "shall complete" in (3)(f); in (5), added (b), redesignated former (b) as (c), and therein substituted "court shall order" for "court may order" and "five (5)" for "four (4)" and added "unless a longer…law" at the end; in (6), designated the former first three sentences (a) and the former last sentence (b), in the third sentence of (a), substituted "clerk must immediately" for "clerk shall" and added "as provided in Section 63-11-37" at the end, and in (b), added the last sentence; in (7) and (8), inserted "fourth" everywhere it appears; inserted "at the time of the offense and who is" in (9); added "with any other administrative license suspension" at the end of (10); inserted "maintained and removed" in (11); in (13), in (a), inserted "at the time of the offense" in the first sentence, added (vi) and made related changes, and in (b), inserted "permanent" and "for expunction, for nonadjudication, or"; and made minor stylistic changes throughout.

The 2017 amendment, effective October 1, 2017, inserted "at the time of the offense" in the last sentence of (2)(a)(iii); added the last sentence in (5)(c); in (8), inserted "for a second or third offense, or without a time limitation for a fourth or subsequent offense" in the second sentence of (8)(a), added (b); rewrote (14)(b)(ii); and inserted "secure online" in (14)(e)(ii) and (iv).

Cross References — Imposition and collection of separate laboratory analysis fee in addition to any other assessments and costs imposed by statute on every individual convicted or nonadjudicated on felony or misdemeanor case under this section, see § 45-1-29.

JUDICIAL DECISIONS

ANALYSIS

4. Charging affidavit or indictment.
7. Admissibility of evidence.
8. —Test results.
9. Sufficiency of evidence.
10. Instructions to jury.
11. Double jeopardy.
12. Sentencing.
14. Miscellaneous.
15. Prior convictions.
16. Appeals.

4. Charging affidavit or indictment.

Defendant's challenge to her indictment was procedurally barred because defendant failed to raise the issue in the circuit court; the indictment clearly alleged both of the essential elements of the aggravated driving while under the influence statute, and thus, the alleged defect was not "jurisdictional" in nature. Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

Defendant had clear notice of the nature of the charges against her because the indictment clearly charged defendant with aggravated driving under the influence (DUI) based on her blood-alcohol concentration, which was still nearly three times the legal limit three hours after the fatal wreck; therefore, the incorrect citation to an inapplicable subsection of the DUI statute was mere "surplusage." Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

Under the aggravated driving while under the influence statute, the State is not required to prove a specific act of negligence, only that the death was caused in a negligent manner; if the State is not required to prove a specific act of negligence at trial, it necessarily follows that such specificity is not required in the indictment. Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

7. Admissibility of evidence.

Although defendant argued the circuit court committed reversible error when it admitted blood-sample test results into evidence in violation of the statutory privileges afforded in the Implied Consent Act, defendant's constitutional challenge was moot, as his blood was not taken pursuant to the Implied Consent Act. Whitaker v. State, 146 So. 3d 333, 2014 Miss. LEXIS 321 (Miss. 2014), cert. denied, 574 U.S. 1123, 135 S. Ct. 1165, 190 L. Ed. 2d 915, 2015 U.S. LEXIS 707 (U.S. 2015).

8. —Test results.

In case involving driving under the influence manslaughter, a trial court did not abuse its discretion by allowing defendant's blood-test results into evidence because the totality of the circumstances established that defendant provided valid, voluntary consent to provide blood samples for blood-alcohol testing. Defendant's consent was valid until revoked by him or until completion of the blood draw. John v. State, 189 So. 3d 683, 2015 Miss. App. LEXIS 626 (Miss. Ct. App. 2015).

Regarding defendant's conviction for per se driving under the influence, the State was not required to prove what defendant's blood alcohol concentration was at the time of the accident. Oatis v. State, 146 So. 3d 1015, 2014 Miss. App. LEXIS 477 (Miss. Ct. App. 2014).

Evidence was sufficient to convict defendant for felony DUI because he provided no authority specific to the alleged gaps in the evidence relating to his blood-alcohol test, he could have been convicted without the test results, there was substantial evidence that he was driving while impaired, and, while he argued reasonable doubt from the absence of the certification of the most recent calibration of the machine used to test his blood-alcohol concentration, he failed to pursue his claim. Jefferson v. State, 138 So. 3d 263, 2014 Miss. App. LEXIS 261 (Miss. Ct. App. 2014).

9. Sufficiency of evidence.

Defendant's conviction for driving under the influence of any other substance was supported by evidence that defendant's eyes were bloodshot, he exhibited eyelid tremors during the Romberg test, he displayed a lack of convergence, and he did not successfully complete the walk-and-turn test or the one-leg-stand test. Furthermore, an officer testified that defendant was the only person in the vehicle who smelled of marijuana, did not smell of alcohol, and a "burnt, green leafy-like substance" in a pipe was found in defendant's pocket. Baughman v. State, 294 So. 3d 108, 2020 Miss. App. LEXIS 102 (Miss. Ct. App. 2020).

There was sufficient evidence to support defendant's conviction for aggravated DUI of intoxicating substances, causing death, including testimony from a toxicologist that defendant was under the influence of methamphetamine and marijuana when his blood was drawn after the accident and that amphetamine was also present in his body. Smith v. State, 292 So. 3d 596, 2020 Miss. App. LEXIS 83 (Miss. Ct. App. 2020).

Trial court did not abuse its discretion in denying defendant's motion for a new trial since the jury found that defendant, driving with a blood-alcohol concentration nearly three times the legal limit, wrecked the car because she was negligent, and there was no contrary evidence that overwhelmed the jury's verdict; the State's accident reconstruction expert concluded that defendant did not maintain the proper lane of travel, overcorrected, and lost control of the car as a result. Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

Evidence supported a Miss. Code Ann. § 63-11-30(1) (Rev. 2012) conviction where the testimony indicated that appellant drove erratically, the jury instructions tracked the indictment and statute, and the jury did not have to find the presence of a specific methamphetamine isomer. Pryor v. State, 265 So. 3d 1233, 2018 Miss. App. LEXIS 404 (Miss. Ct. App. 2018), cert. denied, 265 So. 3d 180, 2019 Miss. LEXIS 110 (Miss. 2019).

Sufficient evidence supported defendant's conviction under Miss. Code Ann. § 63-11-30(5) (2013) because (1) defendant's blood alcohol content was over twice the legal limit, (2) the evidence showed defendant operated a vehicle negligently, and (3) expert testimony was not required to show defendant's victim's injuries. Prince v. State, 225 So. 3d 545, 2017 Miss. App. LEXIS 289 (Miss. Ct. App. 2017).

Evidence supported defendant's conviction because officers testified that defendant was swerving the vehicle defendant was driving, that defendant admitted to operating the vehicle while consuming alcohol, that defendant emanated an odor of alcohol, that defendant had glassy, bloodshot eyes and slurred speech, that defendant experienced difficulty turning off the vehicle, that defendant was unsteady, and that defendant failed field sobriety tests. In addition, the prosecution offered into evidence dash-camera footage of the encounter. Longest v. State, 223 So. 3d 799, 2017 Miss. App. LEXIS 241 (Miss. Ct. App. 2017).

Evidence supported defendant's conviction for aggravated driving under the influence because testimonial evidence from witnesses indicated that defendant swerved recklessly while driving a vehicle and was unable to maintain the lane of traffic or control of the vehicle when defendant collided with another vehicle, resulting in the death of a passenger in the other vehicle. Moreover, testimony showed that defendant exhibited the side effects of Xanax, including disorientation, confusion, slurred speech, pinpoint pupils, diaphoretic, and syncope. Roberts v. State, 229 So. 3d 1060, 2017 Miss. App. LEXIS 610 (Miss. Ct. App. 2017).

Evidence that defendant used his right-turn indicator at an intersection before making a left turn, hit the fog line multiple times within a short distance, failed to move his car completely off the road when he was pulled over by the officer, and, at the scene of the traffic stop, exhibited slurred speech, bloodshot eyes, poor balance, smelled strongly of alcohol, and failed two field sobriety tests was sufficient to support defendant's conviction for felony driving under the influence. Clemons v. State, 199 So. 3d 670, 2016 Miss. LEXIS 345 (Miss. 2016).

Evidence that defendant drove recklessly through a checkpoint after being instructed to stop, a deputy smelled an odor of alcohol coming from defendant's vehicle, defendant admitted to drinking wine, and a portable breath test was positive was sufficient to support defendant's conviction for common-law DUI. Schlepphorst v. State, 201 So. 3d 517, 2016 Miss. App. LEXIS 126 (Miss. Ct. App.), cert. denied, 203 So. 3d 1134, 2016 Miss. LEXIS 418 (Miss. 2016).

Officer's testimony that defendant was speeding and weaving in the road, that he smelled alcohol in defendant's vehicle and on his breath, and defendant's admission to having taken NyQuil along with his insistence that he had not consumed alcohol was sufficient to support defendant's DUI conviction. Fancher v. State, 185 So. 3d 1066, 2016 Miss. App. LEXIS 65 (Miss. Ct. App. 2016).

Evidence was sufficient to support a conviction for driving under the influence under this statute because, although defendant's speech was not slurred, he admitted to drinking, smelled of alcohol, had glassy, bloodshot eyes, and failed to perform the field sobriety tests adequately; moreover, the conviction was not against the weight of the evidence because the fact that defendant was calm and cooperative and did not exhibit balance issues other than during the field sobriety tests did not negate a finding of intoxication. Nolan v. State, 182 So. 3d 484, 2016 Miss. App. LEXIS 21 (Miss. Ct. App. 2016).

Evidence was sufficient to convict defendant of driving under the influence of marijuana because the officer observed defendant's vehicle weave twice before pulling him over; defendant's eyes were bloodshot when he exited his vehicle, he failed the lack-of-convergence test, he exhibited eyelid tremors during the Romberg test, and he did not successfully complete the walk-and-turn test or finger-to-nose test; defendant exhibited 12 indicators that he was under the influence of marijuana while undergoing a drug evaluation; and a forensic toxicologist testified that defendant's blood tested positive for the active metabolite of marijuana, meaning that the drug would have had an impairing effect on defendant when he was pulled over. Warwick v. State, 179 So. 3d 1069, 2015 Miss. LEXIS 582 (Miss. 2015).

In case involving driving under the influence manslaughter, a guilty verdict was not against the overwhelming weight of the evidence where there were alcoholic beverage containers found inside of a vehicle wrecked in a creek, defendant admitted that he consumed alcohol prior to the accident, defendant's blood-alcohol level was .18 percent, and the cause of death for the passengers was drowning. John v. State, 189 So. 3d 683, 2015 Miss. App. LEXIS 626 (Miss. Ct. App. 2015).

Evidence was sufficient to support defendant's DUI conviction where the officer testified that she speeding and failed to completely stop at a stop sign, he smelled alcohol coming from inside the vehicle, defendant's eyes were bloodshot and glassy, her speech was slurred, she admitted she had consumed alcohol that evening, a wine bottle one-fourth full was found inside the vehicle, and a preliminary breath test tested positive for alcohol. Robinette v. State, 189 So. 3d 675, 2015 Miss. App. LEXIS 593 (Miss. Ct. App. 2015).

Prosecution presented sufficient evidence that defendant was driving under the influence of marijuana because a police observed that defendant had dilated pupils, reddened eyes, and slurred speech, and defendant exhibited eyelid and leg tremors while performing a sobriety test; defendant's blood tests revealed the presence of active metabolites for marijuana,and he admitted to smoking marijuana twenty minutes prior to encountering the officer. Parish v. State, 176 So. 3d 781, 2015 Miss. LEXIS 529 (Miss. 2015).

Jury's return of a general verdict finding defendant guilty of felony driving under the influence was of no significance where the evidence was sufficient to support a verdict under either Miss. Code Ann. § 63-11-30(1)(a) or (c) (Supp. 2014). Campbell v. State, 164 So. 3d 519, 2015 Miss. App. LEXIS 269 (Miss. Ct. App. 2015).

Evidence was sufficient to support defendant's conviction because the officers who arrived on the scene found defendant's vehicle positioned halfway in the street and halfway on a curb, with several garbage cans strewn about the adjacent yard, and witnessed defendant sitting in the driver's seat of his vehicle with the key in the ignition. They also testified that defendant was unable to walk, talk, or stand without extreme difficulty and stated that they smelled an intoxicating substance. Pittman v. City of Starkville, 151 So. 3d 1056, 2014 Miss. App. LEXIS 680 (Miss. Ct. App. 2014).

Although defendant argued that the evidence was insufficient to support his conviction for driving under the influence (DUI) because he had an adequate explanation for each factor that the trooper considered in charging him with DUI, this argument in effect challenged, not the sufficiency of the evidence presented by the State during trial, but the weight and credibility given by the circuit court to that evidence. The issue of the weight of the evidence presented against defendant during trial was not before the appellate court. Terrell v. State, 151 So. 3d 277, 2014 Miss. App. LEXIS 657 (Miss. Ct. App. 2014).

Evidence was sufficient to convict defendant of felony driving under the influence (DUI) because the evidence showed that defendant operated a motor vehicle while impaired as an officer testified that defendant admitted he had been drinking earlier that night, that he smelled of alcoholic beverages, had bloodshot eyes, appeared nervous, and acted obstinately, and that he failed or could not complete all three field sobriety tests; and because, although there was some conflicting data, defendant's name, social security/driver's license number, day and month of birth, sex, race, and city of residence appeared on both abstracts of conviction for prior DUI offenses committed in the previous five years. Jefferson v. State, 151 So. 3d 261, 2014 Miss. App. LEXIS 652 (Miss. Ct. App. 2014).

Although, alone, the fact that defendant admitted to consuming a small amount of alcohol may not have been sufficient evidence for common law driving under the influence (DUI), the State presented other evidence, including evidence that defendant's speech was slurred, he had to lean on his vehicle for support, he seemed uncoordinated, he had bloodshot eyes, and he smelled of alcohol; therefore, the evidence was sufficient to support defendant's conviction for felony DUI, third offense. Moore v. State, 151 So. 3d 200, 2014 Miss. LEXIS 562 (Miss. 2014).

In view of evidence that defendant admitted that he had consumed alcoholic beverages about an hour prior to being stopped, his admission that he had an open beer container in his car, his slurred speech, and his acknowledgement that the only field sobriety test he passed was the one-leg-stand test, the evidence was sufficient to sustain defendant's common law driving under the influence conviction. Platt v. State, 151 So. 3d 236, 2014 Miss. App. LEXIS 621 (Miss. Ct. App. 2014).

Since the jury could have convicted defendant of either common-law driving under the influence (DUI) or per se DUI, and the evidence was legally sufficient for either crime, the jury's return of a general verdict was of no significance. Oatis v. State, 146 So. 3d 1015, 2014 Miss. App. LEXIS 477 (Miss. Ct. App. 2014).

There was sufficient evidence for a jury to find defendant guilty of every element of common-law driving under the influence; looking at the evidence presented at trial, a jury could reasonably find that defendant had been driving his car while under the influence of alcohol. Oatis v. State, 146 So. 3d 1015, 2014 Miss. App. LEXIS 477 (Miss. Ct. App. 2014).

Evidence showed that a reasonable factfinder could have found beyond a reasonable doubt that defendant committed the crime of DUI, first offense, under Miss. Code Ann. § 63-11-30(1)(a) and she did so under such circumstances that every element of the offense existed given a police officer's observations, defendant's demonstrated impairment during a field sobriety test, and a video recording of defendant's traffic stop. Oglesby v. City of Madison, 151 So. 3d 1022, 2014 Miss. App. LEXIS 440 (Miss. Ct. App. 2014).

In a prosecution of defendant for driving under the influence, first offense, there was ample evidence of slurred speech, the smell of alcohol, and failed field sobriety tests. Further, defendant admitted to drinking beer, and stated he was about five on a subjective intoxication scale of one to ten. Krueger v. State, 147 So. 3d 887, 2014 Miss. App. LEXIS 336 (Miss. Ct. App. 2014).

Where a defendant appealed her conviction and sentence for violating Miss. Code Ann. § 63-11-30(5), the evidence presented established that defendant was under the influence, and the evidence of her erratic and dangerous driving established that she was driving negligently and that such driving resulted in the death of a passenger in another car. There was no error in the denial of her motions for a judgment notwithstanding the verdict or for a new trial. Faulkner v. State, 131 So. 3d 1240, 2014 Miss. App. LEXIS 52 (Miss. Ct. App. 2014).

Although defendant produced evidence that his truck's power steering had been replaced, the manner in which he handled an incident he blamed on his power steering going out (failing to stop to inform anyone of the incident) supported a finding that defendant was under the influence at the time he hit mailboxes and a boat. Chapman v. State, 126 So. 3d 959, 2013 Miss. App. LEXIS 808 (Miss. Ct. App. 2013).

Evidence supported defendant's conviction of felony driving under the influence causing death because (1) surveillance videos showed that defendant consumed six beers at a casino in a two hour period; (2) defendant, upon leaving the casino, turned defendant's vehicle into an oncoming vehicle; (3) a passenger in the other vehicle was killed; (4) a police officer testified that defendant showed signs of intoxication; and (5) defendant's blood contained .14 percent concentration of alcohol. Andino v. State, 125 So. 3d 700, 2013 Miss. App. LEXIS 715 (Miss. Ct. App. 2013).

Sufficient evidence was presented to allow a reasonable and fair-minded juror to find that defendant operated a motor vehicle under circumstances indicating that he was impaired by alcohol because defendant testified that he had consumed alcohol on the day he was arrested, and the State presented testimony that several empty beer cans and a half-full beer can were found in his car and that he smelled like alcohol when he was pulled over. Young v. State, 119 So. 3d 309, 2013 Miss. LEXIS 392 (Miss. 2013).

There was not a sufficient factual basis, pursuant to Miss. Unif. Cir. & Cty. R. 8.04, to support defendant's guilty plea to driving under the influence (DUI) manslaughter and DUI mayhem because there was no factual basis that defendant had been driving in the county where the accident occurred, that defendant was impaired by controlled substances while defendant was driving, and that defendant performed a negligent act that caused one child's death and another child's serious bodily injury in an auto accident. Porter v. State, 126 So. 3d 68, 2013 Miss. App. LEXIS 479 (Miss. Ct. App. 2013).

Evidence supported defendant's driving under the influence conviction because defendant admitted to having been drinking, defendant's performance on field sobriety tests suggested that defendant was impaired, and a video of defendant at a police department waiting to take an Intoxilyzer breath exam depicted defendant as unsteady, eventually losing balance and falling off a stool, while defendant presented part of the video of what defendant alleged was a seizure, without any other support. Carlson v. City of Ridgeland, 131 So. 3d 1220, 2013 Miss. App. LEXIS 474 (Miss. Ct. App. 2013), cert. denied, 132 So. 3d 579, 2014 Miss. LEXIS 112 (Miss. 2014).

Evidence was sufficient to support defendant's driving under the influence conviction where two police officers smelled alcohol emitting from defendant's vehicle, defendant exhibited physical signs of impairment during field sobriety tests, and defendant refused to submit to an Intoxilyzer test, which was admissible pursuant to Miss. Code Ann. § 63-11-41. Lobo v. City of Ridgeland, 135 So. 3d 148, 2013 Miss. App. LEXIS 300 (Miss. Ct. App. 2013).

Evidence was sufficient to convict defendant of DUI, first offense, even without the results of a breathalyzer test, where the arresting officer testified defendant admitted to drinking five alcoholic beverages, he smelled like alcohol, his speech was slurred, he swayed while standing, and his eyes were bloodshot and watery. Ludwig v. State, 122 So. 3d 1229, 2013 Miss. App. LEXIS 313 (Miss. Ct. App. 2013).

Trial court did not err in denying defendant's motion for judgment notwithstanding the verdict because ample evidence was offered in the form of testimony from the sole testifying witness, a police officer, with regard to defendant's condition on the morning in question; the officer's observations of defendant during the field-sobriety tests were ample proof that defendant's ability to operate her motor vehicle had been impaired by her admitted consumption of alcohol. Huhn v. City of Brandon, 121 So. 3d 947, 2013 Miss. App. LEXIS 331 (Miss. Ct. App. 2013).

10. Instructions to jury.

Jury was properly instructed on the elements of aggravated driving under the influence. Furthermore, the instruction did not constructively amend defendant's indictment, as the instruction did not substantially alter the elements of proof necessary for a conviction, and did not materially alter the defense by defendant. Friston v. State, 243 So. 3d 198, 2017 Miss. App. LEXIS 444 (Miss. Ct. App. 2017), cert. denied, 246 So. 3d 71, 2018 Miss. LEXIS 230 (Miss. 2018).

Jury was properly instructed and returned a guilty verdict that was supported by the evidence at trial because the State presented evidence that defendant was negligent in maintaining her lane of travel, which caused her to lose control of her vehicle and, thereby, caused the victim's death. Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

Trial court did give an erroneous and confusing jury instructions regarding negligence because the negligence instructions, when read as a whole, adequately instructed the jury on the standard of care applicable to defendant. Dartez v. State, 271 So. 3d 733, 2018 Miss. App. LEXIS 636 (Miss. Ct. App. 2018).

Jury was properly instructed on simple negligence, which was enough to support a conviction under this section. Koch v. State, 222 So. 3d 1088, 2017 Miss. App. LEXIS 15 (Miss. Ct. App.), cert. denied, 222 So. 3d 312, 2017 Miss. LEXIS 295 (Miss. 2017).

Defendant was properly convicted of felony driving under the influence because the trial court did not err in refusing to instruct on reckless driving, as defendants in the State of Mississippi no longer enjoyed the right to have the jury instructed on a charge for which they were not indicted unless it was included in the charged offense. McCoy v. State, 196 So. 3d 1007, 2015 Miss. App. LEXIS 616 (Miss. Ct. App. 2015), cert. denied, 202 So. 3d 615, 2016 Miss. LEXIS 325 (Miss. 2016).

11. Double jeopardy.

Double Jeopardy Clause was not violated because the drunk-driving statute established separate crimes for each of the victims identified and the offense of leaving the scene of an accident contained different elements from the offenses established by the drunk-driving statute. Buckner v. State, 135 So. 3d 915, 2013 Miss. App. LEXIS 682 (Miss. Ct. App. 2013), cert. denied, 136 So. 3d 437, 2014 Miss. LEXIS 201 (Miss. 2014).

Inmate's convictions for both driving under the influence (DUI) manslaughter and DUI mayhem did not constitute a violation of his double jeopardy rights. The inmate could be convicted for each death or injury that he caused and the accident he was involved in killed one of his passengers and injured four others. Sills v. State, 105 So. 3d 1189, 2013 Miss. App. LEXIS 13 (Miss. Ct. App. 2013).

12. Sentencing.

Trial court did not abuse its discretion in sentencing defendant where the 10-year sentence was within the statutory limits of Miss. Code Ann. § 63-11-30(2)(d) (Rev. 2013). Ross v. State, 275 So. 3d 1090, 2019 Miss. LEXIS 265 (Miss. 2019).

Because the trial court did not sentence defendant for vehicular manslaughter while intoxicated under Miss. Code Ann. § 63-11-30(5), but, instead, defendant received a 20-year sentence for manslaughter under Miss. Code Ann. § 97-3-47, the trial court's sentence of 20 years under Miss. Code Ann. § 97-3-25(1) was proper. England v. State, 195 So. 3d 830, 2016 Miss. App. LEXIS 14 (Miss. Ct. App. 2016), cert. dismissed, — So. 3d —, 2017 Miss. LEXIS 112 (Miss. 2017).

14. Miscellaneous.

In a felony driving under the influence case, defendant's right to confront witnesses was not violated when his blood-analysis results were authenticated and testified to at trial by a forensic scientist who did not conduct the actual testing of defendant's blood sample, where the scientist stated that he was the technical reviewer on the case and was involved in the production of the report. Ross v. State, 192 So. 3d 1061, 2016 Miss. App. LEXIS 22 (Miss. Ct. App. 2016).

City and police officer were exempt from liability for hitting a minor's vehicle because (1) the minor was engaged in criminal activity, as the minor had marijuana in the minor's system and a blood alcohol content above the legal limit for minors, and (2) a causal nexus existed between this activity and the minor's death. McElroy v. City of Brandon, 198 So. 3d 373, 2015 Miss. App. LEXIS 678 (Miss. Ct. App. 2015), cert. denied, 203 So. 3d 596, 2016 Miss. LEXIS 374 (Miss. 2016).

Defendant was properly convicted of driving under the influence because the county court did not err in failing to consider the .005 margin of error since there was no evidence it failed to do so; once evidence of the margin of error was before the county court, it, as the fact-finder, was entitled to weigh that evidence as it saw fit, and the fact that the county court did not weigh the evidence in defendant's favor did not necessarily establish that the county court failed to consider it. Bratcher v. State, 193 So. 3d 639, 2015 Miss. App. LEXIS 539 (Miss. Ct. App. 2015), cert. denied, 202 So. 3d 1268, 2016 Miss. LEXIS 268 (Miss. 2016).

County court did not apply an improper standard of law when convicting defendant of common-law driving under the influence because its determination of defendant's guilt was well-founded both on the law and the evidence. Huhn v. City of Brandon, 121 So. 3d 947, 2013 Miss. App. LEXIS 331 (Miss. Ct. App. 2013).

15. Prior convictions.

State of Mississippi properly charged defendant with felony driving under the influence (DUI) because the record established that defendant committed three separate DUI offenses within a five-year time frame, as defendant's conviction for aggravated DUI served as a predicate conviction for defendant's felony-DUI indictment. McCoy v. State, 196 So. 3d 1007, 2015 Miss. App. LEXIS 616 (Miss. Ct. App. 2015), cert. denied, 202 So. 3d 615, 2016 Miss. LEXIS 325 (Miss. 2016).

16. Appeals.

Although defendant argued that the evidence was insufficient to support his conviction for driving under the influence because the trooper did not have firsthand knowledge of the events that occurred on the night of defendant's arrest, defendant failed to raise a contemporaneous objection to the trooper's testimony during trial and was, therefore, precluded from raising this issue for the first time on appeal. Terrell v. State, 151 So. 3d 277, 2014 Miss. App. LEXIS 657 (Miss. Ct. App. 2014).

§ 63-11-31. Interlock restricted license; ignition interlock device; impoundment or immobilization of vehicles; use of Interlock Device Fund to offset cost of device installation and operation by indigent offenders; reinstatement of license without interlock restriction.

(1)(a) The provisions of this section are supplemental to the provisions of Section 63-11-30.

(b)(i) "Ignition-interlock device" means a device approved by the Department of Public Safety that connects a motor vehicle ignition system to a breath-alcohol analyzer and prevents a motor vehicle ignition from starting if the driver's blood alcohol level exceeds the calibrated setting on the device.

(ii) "Interlock-restricted license" means a driver's license bearing a restriction that limits the person to operation of vehicles equipped with an ignition-interlock device.

(iii) "Court-ordered drug-testing program" means a program that qualifies under Section 63-11-31.1.

(c) A person who can exercise the privilege of driving only under an interlock-restricted license must have an ignition-interlock device installed and operating on all motor vehicles owned or operated by the person.

(d) A person who installs an ignition-interlock device may obtain an interlock-restricted license.

(2)(a)(i) The cost of installation and operation of an ignition-interlock device shall be borne by the person to whom an interlock-restricted driver's license is issued, and the costs of court-ordered drug testing shall be borne by the person so ordered, unless the person is determined by the court to be indigent.

(ii) The cost of participating in a court-ordered drug-testing program shall be borne by the person, unless the person is determined by the court to be indigent.

(b)(i) A person convicted under Section 63-11-30 shall be assessed by the court, in addition to the criminal fines, penalties and assessments provided by law for violations of Section 63-11-30, a fee of Fifty Dollars ($50.00), to be deposited in theInterlock Device Fund in the State Treasury unless the person is determined by the court to be indigent.

(ii) A person nonadjudicated under Section 63-11-30 shall be assessed by the court, in addition to the criminal fines, penalties and assessments provided by law for violations of Section 63-11-30, a fee of Two Hundred Fifty Dollars ($250.00) to be deposited in the Interlock Device Fund in the State Treasury unless the person is determined by the court to be indigent.

(3)(a) The Department of Public Safety shall promulgate rules and regulations for the use of an ignition-interlock device. The Department of Public Safety shall approve which vendors shall be used to furnish the systems, may assess fees to the vendors, and shall prescribe the maximum costs to the offender for installation, removal, monthly operation, periodic inspections, calibrations and repairs.

(b) A person who has an ignition-interlock device installed in a vehicle shall:

(i) Provide proof of the installation of the device and periodic reporting for verification of the proper operation of the device;

(ii) Have the system monitored for proper use and accuracy as required by departmental regulation;

(iii) Pay the reasonable cost of leasing or buying, monitoring, and maintaining the device unless the person is determined to be indigent; and

(iv) Obtain an ignition-interlock driver's license.

(4)(a)(i) A person who is limited to driving only under an interlock-restricted driver's license shall not operate a vehicle that is not equipped with an ignition-interlock device.

(ii) A person prohibited from operating a motor vehicle that is not equipped with an ignition-interlock device may not solicit or have another person attempt to start or start a motor vehicle equipped with such a device.

(iii) A person may not start or attempt to start a motor vehicle equipped with an ignition-interlock device for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle that is not equipped with an ignition-interlock device.

(iv) A person may not tamper with, or in any way attempt to circumvent, the operation of an ignition-interlock device that has been installed in a motor vehicle.

(v) A person may not knowingly provide a motor vehicle not equipped with a functioning ignition-interlock device to another person who the provider of the vehicle knows or should know is prohibited from operating a motor vehicle not equipped with an ignition-interlock device.

(b) A violation of this subsection (4) is a misdemeanor and upon conviction the violator shall be fined an amount not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00) or imprisoned for not more than six (6) months, or both, unless the starting of a motor vehicle equipped with an ignition-interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle, and the person subject to the restriction does not operate the vehicle.

(5) In order to obtain an interlock-restricted license, a person must:

(a) Be otherwise qualified to operate a motor vehicle, and will be subject to all other restrictions on the privilege to drive provided by law;

(b) Submit proof that an ignition-interlock device is installed and operating on all motor vehicles operated by the person; and

(c) Pay the fee set forth in Section 63-1-43 to obtain the license without regard to indigence; no license reinstatement fee under Section 63-1-46 shall be charged for a person obtaining an interlock-restricted license.

(6)(a) In addition to the penalties authorized for any second or subsequent conviction under Section 63-11-30, the court shall order that all vehicles owned by the offender that are not equipped with an ignition-interlock device must be either impounded or immobilized pending further order of the court lifting the offender's driving restriction. However, no county, municipality, sheriff's department or the Department of Public Safety shall be required to keep, store, maintain, serve as a bailee or otherwise exercise custody over a motor vehicle impounded under the provisions of this section. The cost associated with any impoundment or immobilization shall be paid by the person convicted without regard to ability to pay.

(b) A person may not tamper with, or in any way attempt to circumvent, vehicle immobilization or impoundment ordered by the court under this section. A violation of this paragraph (b) is a misdemeanor and, upon conviction, the violator shall be fined an amount not less than Two Hundred Fifty Dollars ($250.00) nor more than One Thousand Dollars ($1,000.00) or imprisoned for not more than six (6) months, or both.

(7)(a) The Department of Public Safety shall promulgate rules and regulations for the use of monies in the Interlock Device Fund to offset the cost of interlock device installation and operation by and court-ordered drug testing of indigent offenders.

(b) The court shall determine a defendant's indigence based upon whether the defendant has access to adequate resources to pay the ignition-interlock fee and the costs of installation and maintenance of an ignition-interlock device, or the costs of court-ordered drug testing or both, and may further base the determination of indigence on proof of enrollment in one or more of the following types of public assistance:

(i) Temporary Assistance for Needy Families (TANF);

(ii) Medicaid assistance;

(iii) The Supplemental Nutritional Assistance Program (SNAP), also known as "food stamps";

(iv) Supplemental security income (SSI);

(v) Participation in a federal food distribution program;

(vi) Federal housing assistance;

(vii) Unemployment compensation; or

(viii) Other criteria determined appropriate by the court.

(c) No more than ten percent (10%) of the money in the Interlock Device Fund in any fiscal year shall be expended by the department for the purpose of administering the fund.

(d) The Commissioner of the Department of Public Safety must promulgate regulations for the program and for vendors, including at a minimum:

(i) That the offender must pay the cost of the testing program or, if the court finds the offender to be indigent, that the cost be paid from the Interlock Device Fund.

(ii) How indigent funds will be accessed by the vendors, and the maximum cost to the offender or the fund.

(e)(i) Money in the Interlock Device Fund will be appropriated to the department to cover part of the costs of court-ordered drug testing and installing, removing and leasing ignition-interlock devices for indigent people who are required, because of a conviction or nonadjudication under Section 63-11-30, to install an ignition-interlock device in all vehicles operated by the person.

(ii) If money is available in the Interlock Device Fund, the department shall pay to the vendor, for one (1) vehicle per offender, up to Fifty Dollars ($50.00) for the cost of installation, up to Fifty Dollars ($50.00) for the cost of removal, and up to Thirty Dollars ($30.00) monthly for verified active usage of the ignition-interlock device. The department shall not pay any amount above what an offender would be required to pay for the installation, removal or usage of an ignition-interlock device.

(iii) If money is available in the Interlock Device Fund, the department shall pay to the vendor an amount not to exceed that promulgated by the Forensics Laboratory for court-ordered drug testing. The department shall not pay any amount above what an offender would be required to pay individually.

(8) In order to reinstate a form of driver's license that is not restricted to operation of an ignition-interlock equipped vehicle, the person must submit proof to the Department of Public Safety to substantiate the person's eligibility for an unrestricted license, which may be a court order indicating completion of sentence or final order of nonadjudication; in the absence of a court order, the proof may consist of the following or such other proof as the commissioner may set forth by regulation duly adopted under the Administrative Procedures Act:

(a) Proof of successful completion of an alcohol safety program as provided in Section 63-11-32 if so ordered by the court;

(b) Payment of the reinstatement fee required under Section 63-1-46(1)(a);

(c) Payment of the driver's license fee required under Section 63-1-43;

(d) A certificate of liability insurance or proof of financial responsibility; and (e)(i) For those driving under an interlock-restricted license, a declaration from the vendor, in a form provided or approved by the Department of Public Safety, certifying that there have been none of the following incidents in the last thirty (30) days:

1. An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

2. Failure to take or pass any required retest; or

3. Failure of the person to appear at the ignition-interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device; or

(ii) For a person who violated Section 63-11-30 with respect to drugs other than alcohol, proof of successful compliance with all court-ordered drug testing; or

(iii) Both subparagraphs (i) and (ii) of this paragraph (e) if applicable.

(9) The court may extend the interlock-restricted period if the person had a violation in the last thirty (30) days.

(10) The court that originally ordered installation of the ignition-interlock device for a violation of Section 63-11-30 and a court in the municipality or county in which the violation occurred have jurisdiction over an offense under this section.

(11) A person who voluntarily obtains an interlock-restricted license may convert at any time to any other form of license for which the person is qualified.

(12)(a) The Department of Public Safety shall require all manufacturers of ignition-interlock devices to report ignition-interlock data in a consistent and uniform format as prescribed by the Department of Public Safety. Ignition-interlock vendors must also use the uniform format when sharing data with courts ordering an ignition interlock, with alcohol safety education programs, or with other treatment providers.

(b) The Department of Public Safety shall require all vendors of drug testing programs approved under Section 63-11-31.1 to report test results in a consistent and uniform format as prescribed by the Forensics Laboratory. Vendors must report test results to the court on a monthly basis, except that a positive test or failure of the testing participant to submit to verification must be reported to the court within five (5) days of verification of the positive test or the failure to submit.

HISTORY: Laws, 2000, ch. 542, § 1; Laws, 2001, ch. 477, § 1; Laws, 2013, ch. 489, § 2; Laws, 2014, ch. 493, § 2; Laws, 2015, ch. 478, § 3; Laws, 2016, ch. 503, § 6, eff from and after Oct. 1, 2016; Laws, 2018, ch. 447, § 2, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in (2)(b)(ii) by inserting "Interlock Device" preceding "Fund" near the end. The Joint Committee ratified the correction at its July 24, 2014, meeting.

Amendment Notes — The 2014 amendment added (1)(a), (1)(c), and (1)(d) and redesignated former (1) as present (1)(b)(i); in (1)(b)(i), deleted "For the purpose of this section" from the beginning and inserted "approved by the Department of Public Safety" following "means a device"; rewrote (2) and (3); in (4)(a)(i), deleted "ignition-" preceding "interlock-restricted driver's"; deleted (4)(c) and (4)(c)(ii) and restructured former (4)(c)(i) as present (4)(b) inserting "unless" preceding "the starting of a motor vehicle"; deleted former (5) and (6) and added present (5), (6), (7), and (8).

The 2015 amendment substituted "thirty (30)" for "Fifteen (15)" preceding "days after the department" in (1)(c)(ii); added (1)(c)(iii) and (9).

The 2016 amendment, effective October 1, 2016, rewrote (1)(c) and (d) and (5); in (2), inserted "and the costs of court-ordered drug testing shall be borne by the person so ordered" and "by the court" in (a) and added "unless the person is determined by the court to be indigent" at the end of (b)(1) and (ii); added (3)(b)(iv) and made related changes; substituted "six (6) months" for "one (1) year" in (4)(b) and (6)(b); in (7), inserted "and court-ordered drug testing of" in (a), in (b), rewrote the introductory paragraph, which read: "Indigence shall be determined based on proof of enrollment in one or more of the following types of public assistance," substituted "Other criteria determined appropriate by the court" for "Other criteria approved by the department" in (viii), and substituted "vehicles operated by" for "vehicles driven by" in (d)(i); in (8), added "submit proof to the Department…Administrative Procedures Act" at the end of the introductory paragraph, deleted "Submit" from the beginning of (a), substituted "Payment" for "Pay" at the beginning of (b) and (c), and added (d) and (e); added (9); rewrote former (9), which read: "Jurisdiction of an offense under this section shall lie in the court that originally ordered installation of the ignition-interlock device for a violation of Section 63-11-30" and redesignated it (10); added (11) and (12); and made minor stylistic changes throughout.

The 2018 amendment, effective July 1, 2020, added (1)(b)(iii); designated the former (2)(a) as (2)(a)(i) and added (2)(a)(ii); in (7), inserted "interlock" preceding "device installation" in (a), added (d), redesignated former (d) as (e), and therein inserted "court-ordered drug testing" in (i) and added (iii); and added (12)(b).

§ 63-11-31.1. Mississippi Forensics Laboratory to promulgate rules and regulations for court-ordered drug testing of DUI/other drug violators; evaluation of proposals made by and approval of vendors to be utilized by trial courts.

(1) The Mississippi Forensics Laboratory shall promulgate rules and regulations for court-ordered drug testing of DUI/other drug violators and shall approve which vendors are eligible to be utilized by the trial courts when ordering defendants to undergo drug testing as a condition of continuing to exercise the privilege to drive. The Forensics Laboratory may assess fees to the vendors, and shall prescribe the maximum costs to the offender for drug testing. The Forensics Laboratory may seek the advice of the State Intervention Court Advisory Committee in fulfilling these duties.

(2) The Forensics Laboratory must evaluate proposals made by prospective vendors for acceptability, including, without limitation, the following factors:

(a) A description of the method used for assessment;

(b) The frequency with which the offender will be tested;

(c) The procedure used by the vendor to ensure the accuracy of the test results;

(d) The length of time allowed the offender to provide a biological sample after being given notice;

(e) The frequency with which the vendor will make reports to the court;

(f) The list of approved sites for the collection of biological samples for testing.

(3) The Forensics Laboratory must promulgate regulations for the program and for vendors, including at a minimum:

(a) That the offender must pay the cost of the testing program or, if the court finds the offender to be indigent, that the cost be paid from the Interlock Device Fund.

(b) How indigent funds will be accessed by the vendors, and the maximum cost to the offender or the fund.

(4) The Forensics Laboratory will provide the list of approved vendors, subject to continuous updating, to the Mississippi Judicial College for dissemination to the trial courts.

HISTORY: Laws, 2018, ch. 447, § 1, eff from and after July 1, 2020; Laws, 2019, ch. 466, § 26, eff from and after July 1, 2019.

Editor's Note — Laws of 2019, ch. 466, § 1 provides:

"SECTION 1. This act shall be known and may be cited as the 'Criminal Justice Reform Act.'"

Amendment Notes — The 2019 amendment substituted "Intervention" for "Drug" in the last sentence of (1).

§ 63-11-32. Development, implementation and funding of driver improvement program for first offenders convicted of driving while intoxicated or under influence of another substance which impairs ability to operate motor vehicle.

(1) The State Department of Public Safety in conjunction with the Governor's Highway Safety Program, the State Board of Health, or any other state agency or institution shall develop and implement a driver improvement program for persons identified as first offenders convicted of driving while under the influence of intoxicating liquor or another substance which had impaired such person's ability to operate a motor vehicle, including provision for referral to rehabilitation facilities.

(2) The program shall consist of a minimum of ten (10) hours of instruction. Each person who participates shall pay a nominal fee to defray a portion of the cost of the program.

(3) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Mississippi Alcohol Safety Education Program Fund." Monies deposited in such fund shall be expended by the Board of Trustees of State Institutions of Higher Learning as authorized and appropriated by the Legislature to defray the costs of the Mississippi Alcohol Safety Education Program operated pursuant to the provisions of this section. Any

revenue in the fund which is not encumbered at the end of the fiscal year shall lapse to the General Fund.

(4) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Federal-State Alcohol Program Fund." Monies deposited in such fund shall be expended by the Department of Public Safety as authorized and appropriated by the Legislature to defray the costs of alcohol and traffic safety programs. Any revenue in the fund which is not encumbered at the end of the fiscal year shall lapse to the General Fund.

(5) Such assessments as are collected under subsection (2) of Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "Mississippi Forensics Laboratory Implied Consent Law Fund." Monies deposited in such fund shall be expended by the Department of Public Safety as authorized and appropriated by the Legislature to defray the costs of equipment replacement and operational support of the Mississippi Forensics Laboratory relating to enforcement of the Implied Consent Law. Any revenue in the fund which is not encumbered at the end of the fiscal year shall not lapse to the General Fund but shall remain in the fund.

HISTORY: Laws, 1973, ch. 408, § 1; Laws, 1979, ch. 305; Laws, 1981, ch. 491, § 7; Laws, 1983, ch. 466, § 8; Laws, 1990, ch. 329, § 11; Laws, 1991, ch. 356 § 2; Laws, 1996, ch. 527, § 12; Laws, 2015, ch. 452, § 17, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment twice substituted "Mississippi Forensics Laboratory" for "Mississippi Crime Laboratory" in (5).

§ 63-11-33. Interlock Device Fund; purpose; use of monies.

There is created in the State Treasury a special fund to be known as the Interlock Device Fund. The purpose of the fund shall be to provide funding for the Driver's License Bureau of the Department of Public Safety and also to provide funding assistance for ignition interlock devices and court-ordered drug testing for persons determined to be unable to afford the installation and maintenance of an ignition interlock device or costs of drug testing. Monies from the fund shall be distributed by the State Treasurer upon warrants issued by the Department of Public Safety. The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the Driver's License Bureau;

(b) The interest accruing to the fund;

(c) Monies paid by a person for deposit into the fund under Section 63-11-31; and

(d) Monies received from such other sources as may be provided by law.

HISTORY: Laws, 2014, ch. 493, § 5, eff from and after July 1, 2014; Laws, 2018, ch. 447, § 3, eff from and after July 1, 2020.

Editor's Notes — A former 63-11-33 [Codes, 1942, §§ 8175-04, 8175-06, 8175-07; Laws, 1971, ch. 515, §§ 4, 6, 7; Repealed by Laws, 1981, ch. 491, § 16, effective from and after July 1, 1981] made it unlawful to operate a vehicle under the influence of intoxicating liquor, and provided the penalties where chemical test results were not available.

Amendment Notes — The 2018 amendment, effective July 1, 2020, in the second sentence of the introductory paragraph, inserted "and court-ordered drug testing" and "or costs of drug testing."

§ 63-11-37. Contents and disposition of record of conviction under § 63-11-30.

(1) It shall be the duty of the trial judge, upon conviction of a person under Section 63-11-30, to mail or otherwise deliver in a method prescribed by the commissioner a true and correct copy of the traffic ticket, citation or affidavit evidencing the arrest that resulted in the conviction and a certified copy of the abstract of the court record within five (5) days to the Commissioner of Public Safety at Jackson, Mississippi. The trial judge in municipal and justice courts shall show on the docket and the trial judge in courts of record shall show on the minutes:

(a) Whether a chemical test was given and the results of the test, if any; and

(b) Whether conviction was based in whole or in part on the results of such a test.

(2) The abstract of the court record shall show the date of the conviction, the results of the test if there was one, and the penalty, so that a record of same may be made by the Department of Public Safety.

(3) For the purposes of Section 63-11-30, a bond forfeiture shall operate as and be considered as a conviction.

(4) A trial court clerk who fails to provide a true and correct copy of the traffic ticket, citation or affidavit evidencing the arrest that resulted in the conviction and a copy of the abstract of the court record within five (5) days of the availability of that information as required in subsection (1) of this section is guilty of a civil violation and shall be fined One Hundred Dollars ($100.00), for which civil fine the clerk bears sole and personal responsibility. Each instance of failure is a separate violation.

HISTORY: Codes, 1942, § 8175-08; Laws, 1971, ch. 515, § 8; Laws, 1981, ch. 491, § 8; Laws, 1983, ch. 466, § 9; Laws, 1985, ch. 346; Laws, 1991, ch. 480, § 7; Laws, 2016, ch. 503, § 7; Laws, 2017, ch. 428, § 2, eff from and after Oct. 1, 2017.

Amendment Notes — The 2016 amendment, effective October 1, 2016, designated the formerly undesignated paragraphs (1) through (3) and added (4); and in (1), in the first sentence of the introductory paragraph, inserted "or otherwise deliver in a method prescribed by the commissioner" and "certified," in (a), deleted "or not" following "Whether" and added "if any; and" at the end, and substituted "Whether" for "Where" in (b).

The 2017 amendment, effective October 1, 2017, inserted "of the availability of that information" following "five (5) days" in (4).

§ 63-11-41. Admissibility in criminal prosecution of evidence of refusal to submit to chemical test.

JUDICIAL DECISIONS

1. In general.

Because a urine test was a chemical test under Miss. Code Ann. § 63-11-3(c) (Rev. 2013), defendant's refusal to take the test was admissible. Schlepphorst v. State, 201 So. 3d 517, 2016 Miss. App. LEXIS 126 (Miss. Ct. App.), cert. denied, 203 So. 3d 1134, 2016 Miss. LEXIS 418 (Miss. 2016).

In a driving under the influence case, defendant's failure to submit to the Intoxilizyer 8000 was properly admitted into evidence where the State submitted sufficient evidence of intoxication. The evidence was relevant and admissible. Nolan v. State, 182 So. 3d 484, 2016 Miss. App. LEXIS 21 (Miss. Ct. App. 2016).

Mention of defendant's past DUI experiences during the State's closing argument were not improper because the fact that defendant refused to blow was evidence, which was strengthened by the fact defendant had been through it before and understood the consequences of blowing above the legal limit. Snyder v. State, 174 So. 3d 331, 2015 Miss. App. LEXIS 457 (Miss. Ct. App. 2015).

Trial court did not err in allowing the State to mention defendant's prior DUI's during an officer's testimony because the State's questions were crafted to get to the reason why defendant refused to take the field sobriety and breathalyzer test, which was relevant and admissible; the evidence was admitted to show knowledge and intent because the State mentioned defendant's prior experience with field sobriety and breathalyzer tests to prove he knew he was intoxicated and would fail the tests. Snyder v. State, 174 So. 3d 331, 2015 Miss. App. LEXIS 457 (Miss. Ct. App. 2015).

Evidence was sufficient to support defendant's driving under the influence conviction where two police officers smelled alcohol emitting from defendant's vehicle, defendant exhibited physical signs of impairment during field sobriety tests, and defendant refused to submit to an Intoxilyzer test, which was admissible pursuant to Miss. Code Ann. § 63-11-41. Lobo v. City of Ridgeland, 135 So. 3d 148, 2013 Miss. App. LEXIS 300 (Miss. Ct. App. 2013).

§ 63-11-47. Selection and purchase of equipment and supplies.

The Commissioner of Public Safety, acting in concert with the Mississippi Forensics Laboratory created pursuant to Section 45-1-17, is hereby expressly authorized and directed to determine the equipment and supplies which are adequate and necessary from both a medical and law enforcement standpoint for administration of this chapter. The Commissioner of Public Safety, upon receiving such recommendation from the Mississippi Forensics Laboratory, shall recommend an equipment standard for such equipment to the Department of Finance and Administration. The Department of Finance and Administration, using such a uniform standard for said equipment, shall advertise its intention of purchasing said equipment by one (1) publication in at least one (1) newspaper having general circulation in the State of Mississippi at least ten (10) days before the purchase of such equipment and supplies, and the advertisement shall clearly and distinctly describe the articles to be purchased, and shall receive sealed bids thereon which shall be opened in public at a time and place to be specified in the advertisement.

The Department of Finance and Administration shall accept the lowest and best bid for said equipment and supplies; in its discretion, it may reject any and all bids submitted. The lowest and best bid for said equipment and supplies accepted by the Department of Finance and Administration shall be the state-approved price of said equipment for purchase by the state, county and city governments.

Title to all such testing equipment in the state purchased hereunder shall remain in the Commissioner of Public Safety regardless of what entity pays the purchase price.

The state, counties and municipalities may purchase in the name of the Commissioner of Public Safety such equipment and supplies from other vendors of said equipment and supplies necessary to implement this chapter, provided they purchase of the same quality and standard as certified to the Department of Finance and Administration and approved by the department. However, such equipment and supplies shall not be purchased by the state, counties and municipalities unless it is at a price equivalent to or lower than that approved by the Department of Finance and Administration, pursuant to the bid procedure as outlined herein.

HISTORY: Codes, 1942, § 8175-26; Laws, 1971, ch. 515, § 30; Laws, 1981, ch. 491, § 13; Laws, 1984, ch. 488, § 263; Laws, 2015, ch. 452, § 18, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment substituted "Mississippi Forensics Laboratory" for "Crime Laboratory"' and "Department of Finance and Administration" for "state fiscal management board" throughout the section.

§§ 63-11-49 through 63-11-53. Repealed.

Repealed by Laws of 2016, ch. 503, §§ 10-12, effective from and after October 1, 2016.

§ 63-11-49. [Laws, 1992, ch. 500, § 2; Laws, 1996, ch. 527, § 14, eff from and after July 2, 1996.]

§ 63-11-51. [Laws, 1992, ch. 500, § 3; Laws, 1996, ch. 527, § 15, eff from and after July 2, 1996.]

§ 63-11-53. [Laws, 1992, ch. 500, § 4; Laws, 1996, ch. 527, § 16, eff from and after July 2, 1996.]

Editor's Notes — Former § 63-11-49 [Laws, 1992, ch. 500, § 2; Laws, 1996, ch. 527, § 14, effective from and after July 2, 1996; Repealed by Laws, 2016, ch. 503, § 10, effective from and after October 1, 2016] related to the authorization for the impoundment and forfeiture of vehicles seized under this chapter, the notice of intention to forfeit, forfeiture to a spouse under circumstances and judicial review.

Former § 63-11-51 [Laws, 1992, ch. 500, § 3; Laws, 1996, ch. 527, § 15, effective from and after July 2, 1996; Repealed by Laws, 2016, ch. 503, § 11, effective from and after October 1, 2016.] related to the institution of forfeiture proceedings and the filing and service of petition for forfeiture.

Former § 63-11-53 [Laws, 1992, ch. 500, § 4; Laws, 1996, ch. 527, § 16, effective from and after July 2, 1996; Repealed by Laws, 2016, ch. 503, § 12, effective from and after October 1, 2016.] related to the disposition of forfeited vehicles and the money derived from forfeited vehicles.

CHAPTER 13.

INSPECTION OF MOTOR VEHICLES

Sec.
63-13-1 through 63-13-29. Repealed.

§§ 63-13-1 through 63-13-29. Repealed.

Repealed by Laws of 2015, ch. 417, § 1, effective July 1, 2015.

§ 63-13-1. [Codes, 1942, § 8258-01; Laws, 1960, ch. 408, § 1, eff from and after January 1, 1961.]

§ 63-13-3. [Codes, 1942, § 8258-02; Laws, 1960, ch. 408, § 2; Laws, 1966, ch. 572, § 1, eff from and after passage (approved June 7, 1966).]

§ 63-13-5. [Codes, 1942, § 8258-05; Laws, 1960, ch. 408, § 5; Laws, 1964, ch. 456; Laws, 1968, ch. 544, § 1; Laws, 1980, ch. 561, § 24, eff from and after July 2, 1980.]

§ 63-13-7. [Codes, 1942, § 8258-05; Laws, 1960, ch. 408, § 5; Laws, 1964, ch. 456; Laws, 1968, ch. 544, § 1; Laws, 1972, ch. 389, § 1; Laws, 1991, ch. 556 § 1, eff from and after passage (approved April 12, 1991).]

§ 63-13-8. [Laws, 1977, ch. 317, § 1; Laws, 2005, ch. 328, § 3, eff from and after July 1, 2005.]

§ 63-13-9. [Codes, 1942, § 8258-05; Laws, 1960, ch. 408, § 5; Laws, 1964, ch. 456; Laws, 1968, ch. 544, § 1; Laws, 1982, ch. 437, § 7; Laws, 1995, ch. 475, § 22; Laws, 2005, ch. 328, § 2, eff from and after July 1, 2005.]

§ 63-13-11. [Codes, 1942, § 8258-05; Laws, 1960, ch. 408, § 5; Laws, 1964, ch. 456; Laws, 1968, ch. 544, § 1; Laws, 1972, ch. 389, § 1; Laws, 1976, ch. 396, § 6; Laws, 1986, ch. 500, § 52, eff from and after July 1, 1986.]

§ 63-13-13. [Codes, 1942, § 8258-09; Laws, 1960, ch. 408, § 9, eff from and after January 1, 1961.]

§ 63-13-15. [Codes, 1942, § 8258-06; Laws, 1960, ch. 408, § 6, eff from and after January 1, 1961.]

§ 63-13-17. [Codes, 1942, § 8258-07; Laws, 1960, ch. 408, § 7, eff from and after January 1, 1961.]

§ 63-13-19. [Codes, 1942, §§ 8258-04, 8258-07; Laws, 1960, ch. 408, §§ 4, 7; Laws, 1962, ch. 529, eff from and after passage (approved June 1, 1962).]

§ 63-13-21. [Codes, 1942, §§ 8258-03, 8258-04; Laws, 1960, ch. 408, §§ 3, 4; Laws, 1962, ch. 529; Laws, 1977, ch. 317, § 2, eff from and after passage (approved February 25, 1977).]

§ 63-13-23. [Codes, 1942, § 8258-04; Laws, 1960, ch. 408, § 4; Laws, 1962, ch. 529, eff from and after passage (approved June 1, 1962).]

§ 63-13-25. [Codes, 1942, § 8258-08; Laws, 1960, ch. 408, § 8, eff from and after January 1, 1961.]

§ 63-13-27. [Codes, 1942, § 8258-05; Laws, 1960, ch. 408, § 5; Laws, 1964, ch. 456; Laws, 1968, ch. 544, § 1; Laws, 1976, ch. 396, § 7, eff from and after July 1, 1976.]

§ 63-13-29. [Codes, 1942, § 8258-10; Laws, 1960, ch. 408, § 10, eff from and after January 1, 1961.]

Editor's Notes — Former § 63-13-1 provided the short title for Chapter 13.

Former § 63-13-3 prohibited the operation of vehicles without required properly operating equipment or in an unsafe mechanical condition.

Former § 63-13-5 related to the motor vehicle inspection department members and authority to promulgate rules and regulations for the administration and enforcement of the chapter.

Former § 63-13-7 required the periodic inspection and approval of motor vehicles, trailers and school buses and the display of the certificate of inspection and provided exemptions for certain motor vehicles.

Former § 63-13-8 provided a grace period for obtaining valid inspection stickers and the dismissal of charges of violating inspection law under certain circumstances.

Former § 63-13-9 provided certain details of the inspections and required certain vehicles to be inspected by representatives of the Liquefied Compressed Gas Board.

Former § 63-13-11 related to inspection fees and disposition of funds.

Former § 63-13-13 prohibited the issuance of a false certificate of inspection and the display of false or improperly obtained certificate of inspection.

Former § 63-13-15 related to the licensing of official inspection stations, the qualifications of inspectors and the inspection of stations.

Former § 63-13-17 prohibited the improper representation of an establishment as an official station and the issuance of a certificate by an unauthorized person.

Former § 63-13-19 required new and used car/truck dealers to inspect or have inspected each vehicle sold by the dealer.

Former § 63-13-21 authorized the Highway Safety Patrol to stop a vehicle believed to be unsafe or not properly equipped and require the driver to submit the vehicle to an inspection and if the vehicle is found to be unsafe to give the driver a written notice of defects.

Former § 63-13-23 required drivers to correct defects covered in a notice issued under former § 63-13-21.

Former §63-13-25 related to the effect of an inspection certificate and the effect of failure to discover defects during an inspection.

Former § 63-13-27 related to the administration of former Chapter 13.

Former § 63-13-29 provided penalties for violations of former Chapter 13.

CHAPTER 15.

MOTOR VEHICLE SAFETY — RESPONSIBILITY

Sec.	
63-15-3.	Definitions.
63-15-4.	Insurance card; exemptions; card to be kept in vehicle or displayed by electronic image; insurance company to provide; penalty.
63-15-7.	Administration of chapter; judicial review of orders and acts of department.
63-15-43.	Motor vehicle liability policy; definition; required provisions.
63-15-45.	Notice of cancellation or termination of certified policy.
63-15-69.	Particular offenses and penalties.

§ 63-15-3. Definitions.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(a) "Highway" means the entire width between property lines of any road, street, way, thoroughfare or bridge in the State of Mississippi not privately owned or controlled, when any part thereof is open to the public for vehicular traffic and over which the state has legislative jurisdiction under its police power.

(b) "Judgment" means any judgment which shall have become final by expiration, without appeal, of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(c) "Motor vehicle" means every self-propelled vehicle (other than traction engines, road rollers and graders, tractor cranes, power shovels, well drillers, implements of husbandry and electric personal assistive mobility device as defined in Section 63-3-103) which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

For purposes of this definition, "implements of husbandry" shall not include trucks, pickup trucks, trailers and semitrailers designed for use with such trucks and pickup trucks.

(d) "License" means any driver's, operator's, commercial operator's, or chauffeur's license, temporary instruction permit or temporary license, or restricted license, issued under the laws of the State of Mississippi pertaining to the licensing of persons to operate motor vehicles.

(e) "Nonresident" means every person who is not a resident of the State of Mississippi.

(f) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of Mississippi pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in the State of Mississippi.

(g) "Operator" means every person who is in actual physical control of a motor vehicle.

(h) "Owner" means a person who holds the legal title of a motor vehicle; in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter.

(i) "Person" means every natural person, firm, copartnership, association or corporation.

(j) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident, and subject to said limit for one (1) person, in the amount of Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one (1) accident. Liability insurance required under this paragraph (j) may contain exclusions and limitations on coverage as long as the exclusions and limitations language or form has been filed with and approved by the Commissioner of Insurance.

(k) "Registration" means a certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(*l*) "Department" means the Department of Public Safety of the State of Mississippi, acting directly or through its authorized officers and agents, except in such sections of this chapter in which some other state department is specifically named.

(m) "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

HISTORY: Codes, 1942, § 8285-01; Laws, 1952, ch. 359, § 1; Laws, 1972, ch. 349, § 1; Laws, 2003, ch. 485, § 11; Laws, 2005, ch. 483, § 1; Laws, 2015, ch. 315, § 1, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment added the last sentence in (j).

JUDICIAL DECISIONS

1. In general.

Trial court correctly found there was no genuine issue of material fact that an insured made a false warranty and a misrepresentation as to frequent drivers. However, the trial court incorrectly applied the holding in Lyons v. Direct General, 138 So. 3d 887 (Miss. 2014), to the present case because the legislature amended Miss. Code Ann. § 63-15-3, which overruled Lyons. Safeway Ins. Co. v. Dukes, 185 So. 3d 977, 2015 Miss. LEXIS 585 (Miss. 2015).

It was proper to reverse a summary judgment entered for an insurer in a passenger's suit seeking a declaration that a policy covered the default judgment he obtained against the insured's son because the policy did not comply with minimum-liability coverage requirements; an insurer may not issue an insurance card for use as proof of coverage unless the policy complies with minimum statutory requirements, and if the policy provides no liability coverage for certain drivers, it does not comply. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

Mandatory liability insurance requirement pertains to vehicles, not owners or operators; every vehicle operated within the State must have the statutorily required minimum-coverage requirements of $25,000 for injury to one person, $50,000 for injury to two or more people, and $25,000 for property damage, and a liability policy that purports to exclude that coverage for certain drivers fails to comply with the statutory mandate. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

§ 63-15-4. Insurance card; exemptions; card to be kept in vehicle or displayed by electronic image; insurance company to provide; penalty.

(1) The following vehicles are exempted from the requirements of this section:

(a) Motor vehicles exempted by Section 63-15-5;

(b) Motor vehicles for which a bond or a certificate of deposit of money or securities in at least the minimum amounts required for proof of financial responsibility is on file with the department;

(c) Motor vehicles that are self-insured under Section 63-15-53; and

(d) Implements of husbandry.

(2)(a) Every motor vehicle operated in this state shall have a motor vehicle liability insurance policy that covers the vehicle and is in compliance with the liability limits required by Section 63-15-3(j). The insured parties shall be responsible for maintaining the insurance on each motor vehicle.

(b) An insurance company issuing a policy of motor vehicle liability insurance as required by this section shall furnish to the insured an insurance card for each motor vehicle at the time the insurance policy becomes effective. The insurance card may be furnished in either paper or electronic format as chosen by the insured. Acceptable electronic formats include display of electronic images on a cellular phone or any other type of electronic device. Beginning on July 1, 2013, insurers shall furnish commercial auto coverage customers with an insurance card clearly marked with the identifier, “Commercial Auto Insurance” or “Fleet” or similar language, to reflect that the vehicle is insured under a commercial auto policy.

(3) Upon stopping a motor vehicle at a roadblock where all passing motorists are checked as a method to enforce traffic laws or upon stopping a motor vehicle for any other statutory violation, a law enforcement officer, who is authorized to issue traffic citations, shall verify that the insurance card required by this section is in the motor vehicle or is displayed by electronic image on a cellular phone or other type of electronic device. However, no driver shall be stopped or detained solely for the purpose of verifying that the motor vehicle is covered by liability insurance in the amounts required under Section 63-15-3(j) unless the stop is part of such roadblock. If the law enforcement officer uses the verification system created in Section 63-16-3 and receives a response from the system verifying that the owner of the motor vehicle has liability insurance in the amounts required under Section 63-15-3(j), then the officer shall not issue a citation under this section notwithstanding any failure to display an insurance card by the owner or operator.

(4) Failure of the owner or the operator of a motor vehicle to have the insurance card in the motor vehicle, or to display the insurance card by electronic image on a cellular phone or other type of electronic device, is a misdemeanor and, upon conviction, is punishable by a fine of One Hundred Dollars ($100.00) and suspension of driving privilege for a period of one (1) year or until the owner of the motor vehicle shows proof of liability insurance that

is in compliance with the liability limits required by Section 63-15-3(j) and has paid the fines and assessments imposed and the driver's license reinstatement fees imposed by the Department of Public Safety. A judge shall determine whether the defendant is indigent, and if a determination of indigence is made, shall authorize the reinstatement of that person's driver's license upon proof of mandatory liability insurance subject to compliance with a payment plan for any fines, assessments and/or fees. Fraudulent use of an insurance card shall be punishable in accordance with Section 97-7-10. If such fines are levied in a municipal court, the funds from such fines shall be deposited in the general fund of the municipality. If such fines are levied in any of the courts of the county, the funds from such fines shall be deposited in the general fund of the county. A person convicted of a criminal offense under this subsection (4) shall not be convicted of a criminal offense under Section 63-16-13(1) arising from the same incident.

(5) If, at the hearing date or the date of payment of the fine the owner shows proof that such insurance was in effect at the time of citation, the case shall be dismissed as to the defendant with prejudice and all court costs shall be waived against the defendant.

(6) No law enforcement officer may access any function, feature or other electronic image on a person's cellular phone or other type of electronic device when enforcing the provisions of this section except for the electronic image of an insurance card shown to the officer.

HISTORY: Laws, 2000, ch. 302, § 1; Laws, 2005, ch. 483, § 5; Laws, 2005, ch. 498, § 1; Laws, 2008, ch. 487, § 1; Laws, 2012, ch. 504, § 8; Laws, 2013, ch. 475, § 1; Laws, 2015, ch. 421, § 1; brought forward without change, Laws, 2017, ch. 303, § 8, eff from and after July 1, 2017; Laws, 2018, ch. 454, § 1, eff from and after passage (approved April 13, 2018).

Amendment Notes — The 2015 amendment in (2)(a), substituted "a motor vehicle liability insurance policy that covers the vehicle and" for "an insurance card maintained in the motor vehicle as proof of liability insurance" in the first sentence and substituted "on" for "card in" in the last sentence; in (3), added "or is displayed by electronic image on a cellular phone or other type of electronic device" to the end of the first sentence and substituted "the motor vehicle is covered by liability insurance in the amounts required under Section 63-15-3(j)" for "an insurance card is in the motor vehicle" in the second sentence; inserted "or to display the insurance card by electronic image on a cellular phone or other type of electronic device" in (4); and added (6).

The 2017 amendment brought the section forward without change.

The 2018, effective April 13, 2018, in (4), in the first sentence, substituted "One Hundred Dollars ($100.00)" for "Five Hundred Dollars ($500.00)" and added "and has paid…Department of Public Safety" at the end, added the second sentence, deleted the former third sentence, which read: "The funds from such fines shall be deposited in the State General Fund in the State Treasury," in the present fourth sentence, deleted "fifty percent (50%)" following "municipal court," in the present fifth sentence, deleted "fifty percent (50%)" following "courts of the county," and substituted "criminal offense" for "civil violation" in the last sentence; and in (5) combined the former first and second sentences into the present first sentence by deleting "the motor vehicle owner shows proof of motor vehicle liability insurance in the amounts required by Section 63-15-3(j), the fine shall be reduced to One Hundred Dollars ($100.00). If."

Cross References — Imposition of state assessment in addition to all court imposed fines or other penalties for violation of this section, see § 99-19-73.

JUDICIAL DECISIONS

1. In general.

Town provided defendant with charging instruments because the two traffic tickets a police officer issued to defendant met the requirements established by Miss. Code Ann. § 63-9-21(3)(c) and complied with Miss. Unif. Cir. & Cty. R. 7.06; in addition, the town supplemented its discovery disclosures and explicitly informed defendant that he was charged with operating a motor vehicle without a valid driver's license and failing to maintain or provide proof of insurance. Caissie v. State, 254 So. 3d 849, 2018 Miss. App. LEXIS 110 (Miss. Ct. App.), cert. denied, 254 So. 3d 170, 2018 Miss. LEXIS 410 (Miss. 2018), cert. denied, — U.S. —, 140 S. Ct. 100, 205 L. Ed. 2d 36, 2019 U.S. LEXIS 4809 (U.S. 2019).

Legislature possesses the sole power to authorize exclusions, and automobile insurers are not free to escape the statutorily required minimum-liability coverage simply by inserting an exclusion of their choice, no matter how well-reasoned, into their policies; arguments for exceptions to clear statutory requirements should be made to the Legislature, not the supreme court. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

Mandatory liability insurance requirement pertains to vehicles, not owners or operators; every vehicle operated within the State must have the statutorily required minimum-coverage requirements of $25,000 for injury to one person, $50,000 for injury to two or more people, and $25,000 for property damage, and a liability policy that purports to exclude that coverage for certain drivers fails to comply with the statutory mandate. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

It was proper to reverse a summary judgment entered for an insurer in a passenger's suit seeking a declaration that a policy covered the default judgment he obtained against the insured's son because the policy did not comply with minimum-liability coverage requirements; an insurer may not issue an insurance card for use as proof of coverage unless the policy complies with minimum statutory requirements, and if the policy provides no liability coverage for certain drivers, it does not comply. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

§ 63-15-7. Administration of chapter; judicial review of orders and acts of department.

(1) The department shall administer and enforce the provisions of this chapter and may make rules and regulations necessary for its administration, but may not require fees from insurance companies, and shall provide for hearings upon request of persons aggrieved by orders or acts of the department under the provisions of this chapter.

(2) Any order or act of the department, under the provisions of this chapter, may be subject to review within ten days after notice thereof, by appeal to the county court at the instance of any party in interest and in the county wherein the person aggrieved by such order or act resides, or if there be no county court therein, then such jurisdiction shall be in the circuit court of said county, and such court is hereby vested with jurisdiction. The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the department. The court may, in disposing of the issue

before it, modify, affirm, or reverse the order or decision of the department in whole or in part.

(3) Trial in the court shall be de novo, with the burden of proof upon the department. The same shall be tried without regard to any prior holding of fact or law by the department, and judgment entered only upon the evidence offered at the trial by the court. A trial by jury may be had under the rules of the court.

HISTORY: Codes, 1942, § 8285-02; Laws, 1952, ch. 359, § 2; Laws, 2016, ch. 410, § 4, eff from and after Jan. 1, 2017.

Amendment Notes — The 2016 amendment, effective January 1, 2017, inserted "but may not require fees from insurance companies" in (1).

§ 63-15-39. Certificate of insurance as proof of financial responsibility; residents.

JUDICIAL DECISIONS

1. In general.

The court of appeals erred by applying the requirements of Miss. Code Ann. § 63-15-43 (Rev. 2013) because it applied only to policies certified under Miss. Code Ann. §§ 63-15-39 and 63-15-41 (Rev. 2013), and neither party suggested that the liability policy was one certified under §§ 63-15-39 and 63-15-41 Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

§ 63-15-41. Certificate of insurance as proof of financial responsibility; nonresidents.

JUDICIAL DECISIONS

1. In general.

The court of appeals erred by applying the requirements of Miss. Code Ann. § 63-15-43 (Rev. 2013) because it applied only to policies certified under Miss. Code Ann. §§ 63-15-39 and 63-15-41 (Rev. 2013), and neither party suggested that the liability policy was one certified under §§ 63-15-39 and 63-15-41 Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

§ 63-15-43. Motor vehicle liability policy; definition; required provisions.

(1) A "motor vehicle liability policy" as said term is used in this chapter shall mean an owner's or an operator's motor vehicle liability policy, that has been certified as provided in Section 63-15-39 or Section 63-15-41, as proof of financial responsibility, and issued, except as otherwise provided in Section 63-15-41, by an insurance company duly authorized to write motor vehicle liability insurance in this state, to or for the benefit of the person named therein as insured.

(2) Such owner's motor vehicle liability policy:

(a) May be any motor vehicle liability policy form that has been filed with and approved by the Commissioner of Insurance and may contain exclusions and limitations on coverage as long as the exclusions and limitations language has been filed with and approved by the Commissioner of Insurance.

(b) Shall have limits of liability no less than: Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to said limit for one (1) person, Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one (1) accident.

(3) Every motor vehicle liability policy certified under the provisions of this chapter shall be subject to the following provisions which need not be contained therein:

(a) The liability of the insurance company with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by any agreement between the insurance company and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy;

(b) The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance company to make payment on account of such injury or damage;

(c) The insurance company shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph (b) of subsection (2) of this section; or

(d) The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of the chapter shall constitute the entire contract between the parties.

(4) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and such excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants such excess or additional coverage, the term “motor vehicle liability policy” shall apply only to that part of the coverage which is required by this section.

(5) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance company for any payment the insurance company would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(6) Any motor vehicle liability policy may provide for the prorating of the insurance there under with other valid and collectible insurance.

(7) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance companies which policies together meet such requirements.

(8) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

HISTORY: Codes, 1942, § 8285-21; Laws, 1952, ch. 359, § 21; Laws, 1972, ch. 349, § 4; Laws, 2005, ch. 483, § 4; Laws, 2016, ch. 328, § 21; Laws, 2016, ch. 410, § 2, eff from and after Jan. 1, 2017.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected two typographical errors in the version effective until January 1, 2017, in (2)(a) by substituting "coverage is granted" for "coverage granted" and in (6)(d) by substituting "application for the policy" for "application the policy." The Joint Committee ratified the correction at its August 5, 2016, meeting.

Section 21 of ch. 328, Laws of 2016, effective July 1, 2016 (approved April 4, 2016), amended this section. Section 2 of ch. 410, Laws of 2016, effective January 1, 2017 (approved April 11, 2016), also amended this section. The amendments to this section do not conform and do not meet the Joint Legislative Committee on Compilation, Revision and Publication of Legislation's criteria for integration. As set out above, this section reflects the language of Section 21 of ch. 328, Laws of 2016, effective until January 1, 2017, and Section 2 of ch. 410, Laws of 2016, effective January 1, 2017, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier.

Amendment Notes — The first 2016 amendment (ch. 328), effective July 1, 2016, until January 1, 2017, substituted "in the policy" for "therein" near the end of (1), near the beginning of (2)(b), in (3), and in (6); deleted "is thereby to be" preceding "granted" in (2)(a); in (4), substituted "for the policy" for "therefor"; substituted "under the policy" for "thereunder" in (4) and (9); substituted "workers' compensation law" for "workmen's compensation law" in (5)(a) and (b); substituted "amount of the settlement" for "amount thereof" in (6)(c); added (12); and made minor stylistic changes throughout.

The second 2016 amendment (ch. 410), effective January 1, 2017, substituted "operator's motor vehicle liability policy, that has been certified" for "operator's policy of liability insurance certified" in (1); in (2), inserted "motor vehicle liability" in the introductory paragraph, rewrote (a), which read: "Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted," in (b), deleted "pay on behalf of the insured named therein and any other person, as insured, using any such motor vehicle or motor vehicles with the express or implied permission of such named insured, all sums which the insured shall become legally obligated to pay as damages arising out of the ownership, maintenance or use of such motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows" following "Shall" and inserted "have limits of liability no less than" thereafter; deleted former (3) through (5), which required liability insurance pay sums that insured was legally obligated to pay as damages arising out of use of insured's use of motor vehicle, included requisite information to be stated in policy and provided certain excluded liabilities; redesignated former (6) through (11) as (3) through (8); and in (3), inserted "certified under the provisions of this chapter" in the introductory paragraph.

JUDICIAL DECISIONS

ANALYSIS

2. Applicability.
3. Liability coverage.
4. —Omnibus clause.

2. Applicability.

Court of appeals erred by applying the requirements of Miss. Code Ann. § 63-15-43 (Rev. 2013) because it applied only to policies certified under Miss. Code Ann. §§ 63-15-39 and 63-15-41 (Rev. 2013), and neither party suggested that the liability policy was one certified under §§ 63-15-39 and 63-15-41. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

Court of appeals erred by applying the requirements of the statute because it applied only to policies certified under Miss. Code Ann. §§ 63-15-39 and 63-15-41, and neither party suggested that the liability policy was one certified under §§ 63-15-39 and 63-15-41. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

3. Liability coverage.

4. —Omnibus clause.

Named driver exclusion endorsement excluding coverage for a driver was invalid as: (1) it conflicted with Miss. Code Ann. § 63-15-43(2)(b), which required policy coverage for all permissive drivers; (2) an insured could not exclude from coverage a member of her household or anyone else who drove a covered vehicle with the permission of the insured, at least up to the statutorily required minimum coverage. (3) the driver was permitted to operate his mother's car and caused injury to a third party; and (4) a family-member-exclusion was not at issue. Lyons v. Direct Gen. Ins. Co., 138 So. 3d 930, 2012 Miss. App. LEXIS 793 (Miss. Ct. App. 2012), aff'd, 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

Miss. Code Ann. § 63-15-43(2)(b) requires policy coverage for all permissive drivers, and an insured cannot exclude from coverage a member of her household or anyone else who drives a covered vehicle with the permission of the insured, at least up to the statutorily required minimum coverage; named-driver exclusions cannot defeat mandatory liability coverage for persons operating a covered vehicle with the permission of the insured, Lyons v. Direct Gen. Ins. Co., 138 So. 3d 930, 2012 Miss. App. LEXIS 793 (Miss. Ct. App. 2012), aff'd, 138 So. 3d 887, 2014 Miss. LEXIS 100 (Miss. 2014).

§ 63-15-45. Notice of cancellation or termination of certified policy.

When an insurance company has certified a motor vehicle liability policy under Section 63-15-39 or Section 63-15-41, the insurance so certified shall not be cancelled or terminated until at least ten (10) days after a notice of cancellation or termination of the insurance so certified shall be placed in the mail, or transmitted by electronic means, to the department. However, such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

HISTORY: Codes, 1942, § 8285-22; Laws, 1952, ch. 359, § 22; Laws, 2016, ch. 410, § 3, eff from and after Jan. 1, 2017.

Amendment Notes — The 2016 amendment, effective January 1, 2017, in the first sentence, substituted "ten (10) days" for "five days" and "shall be placed in the mail, or transmitted by electronic means, to the department" for "shall be received in the office of the department."

§ 63-15-69. Particular offenses and penalties.

(1) Where any person fails to report an accident as required in Section 63-15-9, in addition to any other penalties prescribed by law, the department shall suspend the license of the person failing to make such report, or the nonresident's operating privilege of such person, until such report has been filed and for such further period not to exceed thirty (30) days as the department may fix.

(2) Any person who gives information required in a report or otherwise as provided for in Section 63-15-9, knowing or having reason to believe that such information is false, or who shall forge, or without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned for not more than one (1) year, or both, except where the statement may be made under oath, in which case the person making the false statement under oath shall, upon conviction, be subject to the penalties for perjury.

(3) Any person whose license or nonresident's operating privilege has been suspended or revoked under this chapter, and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this chapter, shall be fined not more than Five Hundred Dollars ($500.00) or imprisoned not exceeding six (6) months, or both.

(4) Any person willfully failing to return his license as required in Section 63-15-67, shall be fined not more than Five Hundred Dollars ($500.00) or imprisoned not to exceed thirty (30) days, or both.

(5) Any person who shall violate any provision of this chapter for which no penalty is otherwise provided shall be fined not more than Five Hundred Dollars ($500.00) or imprisoned not more than six (6) months, or both.

(6) In order for an individual who has received a license suspension under the State of Mississippi's Implied Consent Laws to be eligible for reinstatement, in addition to other requirements at law, he or she must provide to the Department of Public Safety, a certificate of insurance as a method of giving proof of financial responsibility as provided in Sections 63-15-37(1), 63-15-39 and 63-15-41, that shall be maintained for not less than a period of three (3) years after issuance in accordance with the requirements as set forth in Section 63-15-61.

HISTORY: Codes, 1942, § 8285-32; Laws, 1952, ch. 359, § 31; Laws, 1970, ch. 488, § 1; Laws, 2016, ch. 410, § 1, eff from and after Jan. 1, 2017.

Amendment Notes — The 2016 amendment, effective January 1, 2017, inserted "(30)" following "thirty" near the end of (1) and (4), "(1)" following "not more than one" in (2), and "(6)" following "six" near the end of (3) and (5); and added (6).

Cross References — Mississippi Implied Consent Law, see §§ 63-11-1 et seq.

CHAPTER 16.

PUBLIC SAFETY VERIFICATION AND ENFORCEMENT ACT [REPEALED EFFECTIVE JULY 1, 2022]

Sec.

63-16-3. Creation of electronic motor vehicle insurance verification system; system requirements [Repealed effective July 1, 2022].
63-16-5. Use of verification system by law enforcement [Repealed effective July 1, 2022].
63-16-7. Administration and enforcement of chapter; rules [Repealed effective July 1, 2022].
63-16-9. Repealed.
63-16-13. Failure to maintain liability insurance; penalties; appeal; Uninsured Motorist Identification Fund [Repealed effective July 1, 2022].
63-16-15. Repeal of Sections 63-16-1 through 63-16-13.

§ 63-16-1. Short title [Repealed effective July 1, 2022].

HISTORY: Laws, 2012, ch. 504, § 1; reenacted without change, Laws, 2017, ch. 303, § 1, eff from and after July 1, 2017.

Editor's Notes — This section was reenacted without change by Laws of 2017, ch. 303, § 1, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2017 amendment reenacted the section without change.

§ 63-16-3. Creation of electronic motor vehicle insurance verification system; system requirements [Repealed effective July 1, 2022].

(1) The Department of Public Safety, hereinafter referred to in this section as "department," in cooperation with the Commissioner of Insurance and the Department of Revenue, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle with motor vehicle liability policy requirements under the Mississippi Motor Vehicle Safety-Responsibility Law.

(2) The department, in cooperation with the Department of Revenue if applicable, may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) Send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers through the Internet, World Wide Web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration and other applicable industry standards;

(b) Include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) Be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, and other entities authorized by the department under the provisions of Section 63-16-7;

(d) Be able to interface with existing department systems;

(e) Be able to be accessed by authorized users via a secure web browser;

(f) Not more often than every thirty (30) days, receive insurance information from insurers under specifications and standards set forth in paragraph (a) of this subsection or other data file formats as approved by the department to identify motor vehicle insurance policy information; however, no insurer shall be required to provide information in a format other than those set forth by the Insurance Industry Committee on Motor Vehicle Administration "Insurance Data Transfer Guide," as amended;

(g) Provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or their designee for inclusion in the system;

(h) Provide a means to track separately or distinguish motor vehicles that are subject to a certificate of insurance under Section 63-15-39 or 63-15-41, a certificate of self-insurance under Section 63-15-53, a bond under Section 63-15-49, or a certificate of deposit of money or securities under Section 63-15-51;

(i) Distinguish motor vehicles that are exempt from the provisions of this chapter;

(j) Be available twenty-four (24) hours a day, seven (7) days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any motor vehicle in a manner prescribed by the department; and

(k) Be installed and operational not later than March 1, 2016, followed by an appropriate testing period of not less than six (6) months.

(4) Every insurer shall cooperate with the department and the Insurance Department in establishing and maintaining the system and shall provide motor vehicle liability policy status and information to verify liability coverage for a motor vehicle insured by that company that is registered in this state.

HISTORY: Laws, 2012, ch. 504, § 2; Laws, 2015, ch. 447, § 1; reenacted without change, Laws, 2017, ch. 303, § 2, eff from and after July 1, 2017.

Amendment Notes — The 2015 amendment deleted "owner or operator" following "compliance of a motor vehicle" in (1); inserted "if applicable" in (2); in (3)(c), deleted "the Department of Revenue" preceding "the courts, law enforcement personnel" and deleted "county tax collectors" thereafter, deleted "or the Department of Revenue" following "by the department"; deleted "Department of Revenue" preceding "systems" in (3)(d); in (3)(f), inserted "Not more often than every thirty (30) days" at the beginning, substituted "information" for "data file transfers," inserted "or other data file formats as approved by the department", deleted "that are not covered by an" preceding "insurance policy" and added language beginning "information; however, no insurer shall be" at the end; deleted "the Department of Revenue" preceding "or their designee" in (3)(g);in (3)(j), deleted "the Department of Revenue" at the end; in (3)(k), substituted "March 1, 2016 followed by" for "July 1, 2013, following"; in (4), substituted "Insurance Department" for "Department of Revenue," deleted "access to" following "and shall provide";

deleted former (4)(b), which read: "If available, a motor vehicle that is insured by that company or that is operated in this state regardless of where the motor vehicle is registered"; and made minor stylistic changes.

The 2017 amendment reenacted the section without change.

§ 63-16-5. Use of verification system by law enforcement [Repealed effective July 1, 2022].

(1) A law enforcement officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system established under Section 63-16-3 to verify whether a motor vehicle is covered by a valid motor vehicle liability policy in at least the minimum amounts required under Section 63-15-3(j).

(2) The response received from the system supersedes an insurance card produced by a motor vehicle operator, and notwithstanding the display of an insurance card by the operator, the law enforcement officer may issue a complaint and notice to appear to the operator for a violation of the Mississippi Motor Vehicle Safety-Responsibility Law. A law enforcement officer may exercise discretion in issuing a citation during the first sixty (60) days after proof of temporary insurance is issued by an insurance company, if the verification system shows that the insured's policy is expired and the operator provides proof of insurance with a new insurance company or a new insurance card.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's motor vehicle is unsafe or not equipped as required by law, a law enforcement officer may not use the verification system to stop a driver for operating a motor vehicle in violation of this chapter.

HISTORY: Laws, 2012, ch. 504, § 3; Laws, 2015, ch. 447, § 2; reenacted without change, Laws, 2017, ch. 303, § 3, eff from and after July 1, 2017; brought forward without change, Laws, 2018, ch. 454, § 4, eff from and after passage (approved (April 13, 2018).

Amendment Notes — The 2015 amendment in (2), deleted "owner or" preceding "operator" three times in the first sentence, and added the last sentence.

The 2017 amendment reenacted the section without change.

The 2018 amendment, effective April 13, 2018, brought the section forward without change.

§ 63-16-7. Administration and enforcement of chapter; rules [Repealed effective July 1, 2022].

(1) The Department of Public Safety, hereinafter referred to in this section as "department," shall administer and enforce the provisions of this chapter, as applicable, and shall make rules necessary for the administration of the motor vehicle insurance verification system created under Section 63-16-3.

(2) The rules must:

(a) Establish standards and procedures for accessing the system by authorized personnel of the department, the courts, law enforcement personnel and any other entities authorized by the department that are consistent with specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration and other applicable industry standards;

(b) Provide for the suspension of a driver's license when required by this chapter;

(c) Prohibit the reinstatement of a driver's license unless the applicable fines have been paid; and

(d) Provide for insurance information from insurers, not more often than every thirty (30) days, to identify motor vehicle insurance policy information; however, no insurer shall be required to provide such information in a format other than those set forth by the Insurance Industry Committee on Motor Vehicle Administration "Insurance Data Transfer Guide," as amended.

(3) The department may adopt additional rules to:

(a) Assist authorized users in interpreting responses received from the motor vehicle insurance verification system and determining the appropriate action to be taken as a result of a response; and

(b) Otherwise clarify system operations and business rules.

HISTORY: Laws, 2012, ch. 504, § 4; Laws, 2015, ch. 447, § 3; reenacted without change, Laws, 2017, ch. 303, § 4, eff from and after July 1, 2017.

Amendment Notes — The 2015 amendment in (1), deleted "and the Department of Revenue" preceding "shall administer and enforce" and deleted "jointly or separately" following "shall make rules"; in (2)(a), deleted "the Department of Revenue" preceding "the courts, law enforcement personnel" and "tax collectors of each county" thereafter, deleted "or the Department of Revenue" preceding "that are consistent with"; deleted "a vehicle registration and/or" preceding "a driver's license" in (2)(b); deleted "vehicle registration or" preceding "driver's license" in (2)(c); rewrote (2)(d), which read 'Provide for periodic insurance data file transfers from insurers to identify motor vehicles that are not covered by an insurance policy and to monitor ongoing compliance with mandatory motor vehicle liability insurance requirements'; and deleted "and/or the Department of Revenue" following "The department" in (3).

The 2017 amendment reenacted the section without change.

§ 63-16-9. Repealed.

Repealed by Laws of 2015, ch. 447, § 4, effective upon approval April 20, 2015.

§ 63-16-9. [Laws, 2012, ch. 504, § 5, eff from and after July 1, 2013.]

Editor's Notes — Former § 63-16-9 required every owner of a motor vehicle to be in compliance with mandatory motor vehicle liability insurance coverage to receive registration or renew registration.

§ 63-16-11. Applicability; defintion of commercial auto coverage [Repealed effective July 1, 2022].

HISTORY: Laws, 2012, ch. 504, § 6; reenacted without change, Laws, 2017, ch. 303, § 5, eff from and after July 1, 2017.

Editor's Notes — This section was reenacted without change by Laws of 2017, ch. 303, § 5, effective from and after July 1, 2017. Since the language of the section as it appears in the main volume is unaffected by the reenactment, it is not reprinted in this supplement.

Amendment Notes — The 2017 amendment reenacted the section without change.

§ 63-16-13. Failure to maintain liability insurance; penalties; appeal; Uninsured Motorist Identification Fund [Repealed effective July 1, 2022].

(1) If the operator of a motor vehicle being operated on the public roads, streets or highways of the State of Mississippi or registered in the State of Mississippi has been found failing to have motor vehicle liability insurance in at least the minimum amounts required under Section 63-15-3(j), it is a misdemeanor and, upon conviction, is punishable by a fine of One Hundred Dollars ($100.00) and suspension of driving privilege for a period of one (1) year or until the owner of the motor vehicle shows proof of liability insurance that is in compliance with the liability limits required by Section 63-15-3(j) and has paid the fines and assessments imposed and the driver's license reinstatement fees imposed by the Department of Public Safety. A judge shall determine whether the defendant is indigent, and if a determination of indigence is made, shall authorize the reinstatement of that person's driver's license upon proof of mandatory liability insurance subject to compliance with a payment plan for any fines, assessments and/or fees. If such fines are levied in a municipal court, the funds from such fines shall be deposited in the general fund of the municipality. If such fines are levied in any of the courts of the county, the funds from such fines shall be deposited in the general fund of the county. A person convicted of a criminal offense under this subsection (1) shall not be convicted of a criminal offense under Section 63-15-4(4) arising from the same incident.

(2)(a) There is created in the State Treasury a special fund to be designated as the "Uninsured Motorist Identification Fund." The fund shall consist of monies deposited therein as provided under subsection (1) of this section and monies from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund; however, one-half (1/2) of any monies in excess of the amount needed to defray the expenses and costs of the verification system created under Section 63-16-3 remaining in the fund at the end of a fiscal year shall be transferred to a special fund created in the State Treasury for the purpose of funding a Highway Patrol Trooper School, and one-half (1/2) of any monies in excess of the amount needed to defray the expenses and costs of the verification system created under Section 63-16-3 remaining in the fund at the end of a fiscal year shall be transferred to the Mississippi Trauma Care Systems Fund created under Section 41-59-75.

(b) Monies in the Uninsured Motorist Identification Fund may be used by the Department of Public Safety, upon appropriation by the Legislature, only for the purpose of defraying expenses and costs for the motor vehicle insurance verification system created under Section 63-16-3. In addition, at any time during a fiscal year, if the Department of Public Safety determines that funds in the Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund created under Section 45-2-1 are insufficient, the department may request the State Fiscal Officer to transfer funds from the Uninsured Motorist Identification Fund. The State Fiscal Officer may make an appropriate transfer if he determines that the funds in the Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund are insufficient and the funds in the Uninsured Motorist Identification Fund will be sufficient for defraying the expenses and costs for the motor vehicle insurance verification system created under Section 63-16-3. Monies in the fund used for the purposes described in this paragraph (b) shall be in addition to other funds available from any other source for such purposes.

HISTORY: Laws, 2012, ch. 504, § 7; Laws, 2014, ch. 437, § 2; Laws, 2015, ch. 447, § 5; reenacted without change, Laws, 2017, ch. 303, § 6, eff from and after July 1, 2017; Laws, 2018, ch. 454, § 2, eff from and after passage (approved April 13, 2018).

Amendment Notes — The 2014 amendment, in the first sentence of (1), substituted "violation" for "conviction" in three places; and added the second and third sentences in (2)(b).

The 2015 amendment in (1), substituted "operator" for "owner" and "has been found failing" for "fails," deleted "the Commissioner of Public Safety, the Commissioner of Revenue or" preceding "a court of" and deleted "vehicle registration and/or the owner's or the" preceding "operator's driving privilege" in the first sentence, deleted "registration or" preceding "driving privilege," , substituted "operator" for "owner" and inserted "and driver's license reinstatement fees imposed by the Department of Public Safety" in the second sentence; deleted "and the Department of Revenue" following "Department of Public Safety" near the beginning of (2)(b).

The 2017 amendment reenacted the section without change.

The 2018 amendment, effective Apri 13, 2018, rewrote (1), which read: "If the operator of a motor vehicle being operated on the public roads, streets or highways of the State of Mississippi or registered in the State of Mississippi has been found failing to have motor vehicle liability insurance in at least the minimum amounts required under Section 63-15-3(j), a court of proper jurisdiction shall suspend the operator's driving privilege and shall impose a civil penalty in an amount of Three Hundred Dollars ($300.00) upon a first violation, in an amount of Four Hundred Dollars ($400.00) upon a second violation and in an amount of Five Hundred Dollars ($500.00) upon a third or subsequent violation. If suspended, the driving privilege shall not be reinstated until the operator has motor vehicle liability insurance in at least the minimum amounts required under Section 63-15-3(j) and has paid the civil penalties imposed and driver's license reinstatement fees imposed by the Department of Public Safety. Any person shall have the right to appeal any suspension or civil penalty under this section in a court of proper jurisdiction. If the matter is appealed and a violation is found, then the court shall not reduce, suspend or suspend the execution of any penalty imposed under the provisions of this subsection, in whole or in part. It shall be the duty of the county prosecuting attorney, an attorney employed under the provisions of Section 19-3-49, or in the event there is no such prosecuting attorney for the county, the duty of the district attorney to represent the state in any appeal held under this subsection. Civil penalties collected under this subsection shall be deposited into the special fund created under subsection (2) of this section. However, if the appeal of such civil penalty would be under the proper jurisdiction of a municipal court, One Hundred Dollars ($100.00) of the funds from such civil penalty shall be deposited in the general fund of that municipality. If the appeal of such civil penalty would be under the proper jurisdiction of any of the courts of a county, One Hundred Dollars ($100.00) of the funds from such civil penalty shall be deposited in the general fund of that county. A person convicted of a civil violation under this subsection (1) shall not be convicted of a criminal offense under Section 63-15-4(4) arising from the same incident"; substituted "A special fund created in the State Treasury for the purpose of funding a Highway Patrol Trooper School" for "the Motor Vehicle Ad Valorem Tax Reduction Fund created under Section 27-51-105" in the last sentence of (2)(a); and substituted "Uninsured Motorist Identification Fund" for "special fund" in (2)(b).

Cross References — Imposition of state assessment in addition to all court imposed fines or other penalties for violation of this section, see § 99-19-73.

§ 63-16-15. Repeal of Sections 63-16-1 through 63-16-13.

Sections 63-16-1 through 63-16-13 shall stand repealed from and after July 1, 2022.

HISTORY: Laws, 2012, ch. 504, § 10; reenacted and amended, Laws, 2017, ch. 303, § 7, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment reenacted and amended the section to extend the date of the repealer for §§ 63-16-1 through 63-16-13 by substituting "July 1, 2022" for "July 1, 2018."

CHAPTER 17.

MANUFACTURE, SALES AND DISTRIBUTION

Distribution and Sales. 63-17-51
Dealer Contracts. 63-17-131
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DISTRIBUTION AND SALES

Sec.
63-17-55. Definitions.
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63-17-74. Sale of motor vehicle not titled and registered in name of seller prohibited; exceptions; penalty for violation.
63-17-75. Applications for licenses.
63-17-111. Owner of dealership may appoint successor by written agreement; manufacturer or dealer must honor succession unless good cause shown; procedure for refusing to honor succession.
63-17-117. Warranty or sales incentive audits to be conducted within certain amount of time after payment of disputed claim or end of incentive or rebate program; approved and paid claims not to be charged back to dealer absent fraud, improper repair, or failure to substantiate claim.
63-17-118. Manufacturer or distributor to compensate motor vehicle dealer upon termination, cancellation or nonrenewal of franchise or discontinuation of motor vehicle line or make or parts essential to line or make.

§ 63-17-55. Definitions.

The following words, terms and phrases, when used in the Mississippi Motor Vehicle Commission Law, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Motor vehicle" means any motor-driven vehicle of the sort and kind required to have a Mississippi road or bridge privilege license, and shall include, but not be limited to, motorcycles. "Motor vehicle" shall also mean an engine, transmission, or rear axle manufactured for installation in a vehicle having as its primary purpose the transport of person or persons or property on a public highway and having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds, whether or not attached to a vehicle chassis.

(b) "Motor vehicle dealer" means any person, firm, partnership, copartnership, association, corporation, trust or legal entity, not excluded by paragraph (c) of this section, who holds a bona fide contract or franchise in effect with a manufacturer, distributor or wholesaler of new motor vehicles, and a license under the provisions of the Mississippi Motor Vehicle Commission Law, and such duly franchised and licensed motor vehicle dealers shall be the sole and only persons, firms, partnerships, copartnerships, associations, corporations, trusts or legal entities entitled to sell and publicly or otherwise solicit and advertise for sale new motor vehicles as such.

(c) The term "motor vehicle dealer" does not include:

(i) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(ii) Public officers while performing their duties as such officers;

(iii) Employees of persons, corporations or associations enumerated in paragraph (c)(i) of this section when engaged in the specific performance of their duties as such employees; or

(iv) A motor vehicle manufacturer operating a project as defined in Section 57-75-5(f)(iv)1; and the provisions of the Mississippi Motor Vehicle Commission Law shall not apply to:

1.a. Any lease by such a motor vehicle manufacturer of three (3) or fewer motor vehicles at any one time and related vehicle maintenance, of any line of vehicle produced by the manufacturer or its subsidiaries, to any one (1) employee of the motor vehicle manufacturer on a direct basis; or

b. Any sale or other disposition of such motor vehicles by the motor vehicle manufacturer at the end of a lease through direct sales to employees of the manufacturer or through an open auction or auction limited to dealers of the manufacturer's vehicle line or its subsidiaries' vehicle lines; or

2. Any sale or other disposition by such a motor vehicle manufacturer of motor vehicles for which the manufacturer obtained distinguishing number tags under Section 27-19-309(8).

(d) "New motor vehicle" means a motor vehicle which has not been previously sold to any person except a distributor or wholesaler or motor vehicle dealer for resale.

(e) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a motor vehicle dealer purchasing in his capacity as such dealer, who in good-faith purchases such new motor vehicle for purposes other than for resale.

(f) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging or otherwise disposing of a new motor vehicle to an ultimate purchaser for use as a consumer.

(g) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer whose duties include the selling or offering for sale of new motor vehicles.

(h) "Commission" means the Mississippi Motor Vehicle Commission.

(i) "Manufacturer" means any person, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles.

(j) "Distributor" or "wholesaler" means any person, firm, association, corporation or trust, resident or nonresident, who, in whole or in part, sells or distributes new motor vehicles to motor vehicle dealers, or who maintains distributor representatives.

(k) "Factory branch" means a branch or division office maintained by a person, firm, association, corporation or trust who manufactures or assembles new motor vehicles for sale to distributors or wholesalers, to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives.

(*l*) "Distributor branch" means a branch or division office similarly maintained by a distributor or wholesaler for the same purposes a factory branch or division is maintained.

(m) "Factory representative" means a representative employed by a person, firm, association, corporation or trust who manufactures or assembles new motor vehicles, or by a factory branch, for the purpose of making or promoting the sale of his, its or their new motor vehicles, or for supervising or contacting his, its or their dealers or prospective dealers.

(n) "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.

(o) "Person" means and includes, individually and collectively, individuals, firms, partnerships, copartnerships, associations, corporations and trusts, or any other forms of business enterprise, or any legal entity.

(p) "Good faith" means the duty of each party to any franchise agreement, and all officers, employees or agents franchise, to act in a fair and equitable manner toward each other in the performance of the respective obligations under the franchise agreement.

(q) "Coerce" means to compel or attempt to compel by threat or duress. However, recommendation, exposition, persuasion, urging or argument shall not be deemed to constitute coercion.

(r) "Special tools" are those which a dealer was required to purchase by the manufacturer or distributor for service on that manufacturer's product.

(s) "Motor vehicle lessor" means any person, not excluded by paragraph (c) of this section, engaged in the motor vehicle leasing or rental business.

(t) "Specialty vehicle" means a motor vehicle manufactured by a second stage manufacturer by purchasing motor vehicle components, e.g. frame and drive train, and completing the manufacturer of finished motor vehicles for the purpose of resale with the primary manufacturer warranty unimpaired, to a limited commercial market rather than the consuming public. Specialty vehicles include garbage trucks, ambulances, fire trucks, buses, limousines, hearses and other similar limited purpose vehicles as the commission may by regulation provide.

(u) "Auto auction" means (i) any person who provides a place of business or facilities for the wholesale exchange of motor vehicles by and between duly licensed motor vehicle dealers, (ii) any motor vehicle dealer licensed to sell used motor vehicles selling motor vehicles using an auction format but not on consignment, or (iii) any person who provides the facilities for or is in the business of selling in an auction format motor vehicles.

(v) "Motor home" means a motor vehicle that is designed and constructed primarily to provide temporary living quarters for recreational, camping or travel use.

(w) "Dealer-operator" means the individual designated in the franchise agreement as the operator of the motor vehicle dealership.

(x) "Franchise" or "franchise agreement" means a written contract or agreement between a motor vehicle dealer and a manufacturer or its distributor or factory branch by which the motor vehicle dealer is authorized to engage in the business of selling or leasing the specific makes, models or classifications of new motor vehicles marketed or leased by the manufacturer and designated in the agreement or any addendum to such agreement.

(y) "Net cost" means the price the motor vehicle dealer pays for new motor vehicles, supplies, parts, equipment, signs, furnishings and special tools, minus any applicable discounts or subsidies obtained by the motor vehicle dealer.

(z) "Line or make" means a collection of models, series, or groups of motor vehicles manufactured by or for a particular manufacturer, distributor or importer offered for sale, lease or distribution pursuant to a common trademark, service mark or brand name; however:

(i) Multiple brand names or marks may constitute a single line or make, but only when included in a common motor vehicle dealer agreement and the manufacturer, distributor or importer offers such vehicles bearing the multiple names of marks together only, and not separately, to its authorized motor vehicle dealers.

(ii) Motor vehicles bearing a common brand name or mark may constitute separate line or makes when such vehicles are of different vehicle types or are intended for different types of use, provided that either:

1. The manufacturer has expressly defined or covered the subject line or makes of vehicles as separate and distinct line or makes in the applicable dealer agreements; or

2. The manufacturer has consistently characterized the subject vehicles as constituting separate and distinct line or makes to its dealer network.

(aa) "Site-control agreement" or "exclusive use agreement" means an agreement that, regardless of its name, title, form or the parties entering into it, has the effect of:

(i) Controlling the use and development of the premises of a motor vehicle dealer's franchise or facilities;

(ii) Requiring a motor vehicle dealer to establish or maintain an exclusive motor vehicle dealership facility on the premises of the motor vehicle dealer's franchise or facility;

(iii) Restricting the power or authority of the dealer or the lessor, if the motor vehicle dealer leases the dealership premises, to transfer, sell, lease, develop, redevelop or change the use of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease or any similar arrangement; or

(iv) Establishing a valuation process or formula for the motor vehicle dealership premises that does not allow for the motor vehicle dealership premises to be transferred, sold or leased by the motor vehicle dealer at the highest and best use valuation for the motor vehicle dealership premises.

(bb) "Market area" means the area of responsibility set forth in the franchise agreement.

(cc) "Core parts" means those original vehicle manufacturer parts that are listed in the original vehicle manufacturer's or distributor's current parts catalog, for which there is a core charge and which are returnable to the manufacturer or distributor.

HISTORY: Codes, 1942, § 8071.7-03; Laws, 1970, ch. 478, § 3; Laws, 1982, ch. 392; reenacted, Laws, 1983, ch. 344, § 3; reenacted without change, Laws, 1991, ch. 305, § 3; Laws, 1994, ch. 399, § 2; Laws, 2000, ch. 418, § 8; Laws, 2000, 3rd Ex Sess, ch. 1, § 20; Laws, 2006, ch. 432, § 2; Laws, 2007, ch. 303, § 9; Laws, 2014, ch. 349, § 2, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment, in (c)(iv), deleted "or Section 57-75-5(f)(xxi)" following "as defined in Section 57-75-5(f)(iv)1"; in (e), inserted a hyphen in between the words "good faith"; in (p), inserted "agreement" after "franchise"; substituted "franchise" for "thereof"; substituted "in the performance of the respective obligations under the franchise agreement" for "so as to guarantee the one party freedom from coercion, intimidation or threats of coercion or intimidation from the other party. However, recommendation, endorsement, exposition, persuasion, urging or argument shall not be deemed to constitute a lack of good faith"; in (q), substituted "to compel or attempt to compel by threat or duress" for "the failure to act in good faith in performing or complying with any terms or provisions of the franchise or agreement"; and "coercion" for "a lack of good faith"; added (y), (z), (aa), (bb), and (cc) to the end; and inserted minor punctuation throughout.

§ 63-17-73. Offenses and penalties.

(1) It is unlawful:

(a) For any person, firm, association, corporation or trust to engage in business as, or serve in the capacity of, or act as a motor vehicle dealer, motor vehicle salesman, manufacturer, distributor, wholesaler, factory branch or division, distributor branch or division, wholesaler branch or division, factory representative or distributor representative, as such, in this state without first obtaining a license therefor as provided in the Mississippi Motor Vehicle Commission Law, regardless of whether or not the person, firm, association, corporation or trust maintains or has a place or places of business in this state. Any person, firm, association, corporation or trust engaging, acting or serving in more than one (1) of the capacities or having more than one (1) place where the business is carried on or conducted shall be required to obtain and hold a current license for each capacity and place of business.

(b) For a motor vehicle dealer or a motor vehicle salesman:

(i) To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser. However, this prohibition shall not apply as to special features, appliances, equipment, parts or accessories which are already installed on the car when received by the dealer.

(ii) To represent and sell as a new motor vehicle any motor vehicle which has been used and operated for demonstration purposes or which is otherwise a used motor vehicle.

(iii) To resort to or use any false or misleading advertisement in connection with his business as a motor vehicle dealer or motor vehicle salesman.

(iv) To sell an extended service contract, extended maintenance plan or similar product that is not offered, endorsed or sponsored by a manufacturer or distributor without disclosing to the consumer, orally and in writing, that the offered product is not provided or supported by a manufacturer or distributor.

(c) For a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesaler branch or division, or officer, agent or other representative thereof, to coerce, or attempt to coerce, any motor vehicle dealer:

(i) To order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories therefor, or any other commodity or commodities which shall not have been voluntarily ordered by the motor vehicle dealer.

(ii) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of the motor vehicles as publicly advertised by the manufacturer thereof.

(iii) To order for any person any parts, accessories, equipment, machinery, tools, appliances or any commodity whatsoever.

(iv) To contribute or pay money or anything of value into any cooperative or other advertising program or fund.

This paragraph (c) shall not apply to manufacturers of motor homes governed by the provisions of Sections 63-17-201 through 63-17-221.

(d) For a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesaler branch or division, or officer, agent or other representative thereof:

(i) To refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order to any duly licensed motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division, any motor vehicles as are covered by such franchise or contract specifically publicly advertised by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division or wholesale branch or division, to be available for immediate delivery. However, the failure to deliver any motor vehicle shall not be considered a violation of this subsection if the failure is due to acts of God, work stoppages or delays due to strikes or labor difficulties, freight embargoes or other causes over which the manufacturer, distributor or wholesaler, or any agent thereof, has no control.

(ii) To coerce, or attempt to coerce any motor vehicle dealer to enter into any agreement, with the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to the dealer by threatening to cancel any franchise or any contractual agreement existing between the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, and the dealer. However, good-faith notice to any motor vehicle dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this subsection.

(iii) To terminate or cancel the franchise or selling agreement of any dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement. "Due cause" shall be defined as a breach by the dealer of a material provision of the franchise agreement which breach has not been cured within a reasonable time after the dealer has been given written notice of the breach. The burden of proving that due cause exists shall be upon the party attempting to terminate, cancel or not renew the franchise or selling agreement. The manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing, and forward a copy of the notice to the commission, of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty (60) days before the effective date thereof, stating the specific grounds for such termination or cancellation. The manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesaler branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing, and forward a copy of the notice to the commission, at least sixty (60) days before the contractual term of his franchise or selling agreement expires that the franchise or selling agreement will not be renewed, stating the specific grounds for the nonrenewal, in those cases where there is no intention to renew the franchise or selling agreement. In no event shall the contractual term of any franchise or selling agreement expire, without the written consent of the motor vehicle dealer involved, prior to the expiration of at least sixty (60) days following such written notice. Any motor vehicle dealer who receives written notice that his franchise or selling agreement is being terminated or cancelled or who receives written notice that his franchise or selling agreement will not be renewed, may, within the sixty-day notice period, file with the commission a verified complaint for its determination as to whether the termination or cancellation or nonrenewal is unfair within the purview of the Mississippi Motor Vehicle Commission Law, and the franchise agreement shall continue in effect until final determination of the issues raised in the complaint notwithstanding anything to the contrary contained in the law or in the franchise or selling agreement.

(iv) To require, attempt to require, coerce or attempt to coerce a dealer, by franchise agreement or otherwise, or as a condition to the renewal or continuation of a franchise agreement, to materially change the dealer's method of conducting business, not including its facilities, if the change would impose substantial and unreasonable financial hardship on the business of the motor vehicle dealer in light of the business objective of the proposed change, unless the change is voluntarily agreed to by the dealer for separate and valuable consideration.

(v) To offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price charged to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device, including, but not limited to, sales promotion plans or programs which result in such lesser actual price. The provisions of this subparagraph shall not apply so long as a manufacturer, distributor or wholesaler, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at the same price. This subparagraph shall not be construed to prevent the offering of volume discounts if such discounts are equally available to all franchised motor vehicle dealers of the same line or make in this state.

The provisions of this subsection shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by such dealer in a driver education program, to sales to a motor vehicle dealer for resale to any unit of government, federal, state or local, or to bona fide fleet sales.

(vi) To offer to sell or to sell parts and/or accessories to any new motor vehicle dealer for use in his own business for the purpose of repairing or replacing the same or a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts and/or accessories for use in his own business. However, it is recognized that certain motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets, and nothing herein contained shall be construed to prevent a manufacturer, distributor or wholesaler, or any agent thereof, from selling to a motor vehicle dealer who operates and serves as a wholesaler of parts and accessories, the parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories.

(vii) To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the motor vehicle dealer at all times meets any capital standards agreed to between the dealership and the manufacturer, distributor or wholesaler, provided such standards are deemed reasonable by the commission.

(viii) To prevent or attempt to prevent by contract or otherwise any motor vehicle dealer or any officer, partner or stockholder of any motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties. However, no motor vehicle dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or any right thereunder without the consent of the manufacturer, distributor or wholesaler which consent shall not be unreasonably withheld.

(ix) To condition unreasonably the renewal or extension of a franchise on a motor vehicle dealer's substantial renovation of the motor vehicle dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the motor vehicle dealer. The manufacturer shall notify the motor vehicle dealer in writing of its intent to impose such a condition within a reasonable time prior to the effective date of the proposed renewal or extension, but in no case less than one hundred eighty (180) days prior to the renewal or extension. Upon receipt of written notification, a motor vehicle dealer shall have sixty (60) days to file a protest with the commission, and the manufacturer shall demonstrate to the commission the need for the demand in view of the need to service the public and the economic conditions existing in the motor vehicle industry and the market area served by the motor vehicle dealer at the time the action would be required of the motor vehicle dealer. As part of any such condition the manufacturer shall offer the motor vehicle dealer a reasonable initial supply and model mix of motor vehicles to meet the sales levels necessary to support the increased overhead incurred by the motor vehicle dealer by reason of the renovation, construction, purchase or rental of a new place of business consistent with nationally applied standards.

(x) To require, coerce or attempt to coerce a motor vehicle dealer to refrain from participation in the management of, investment in, the acquisition of, or the current operation of any other line of motor vehicles or related products, as long as the motor vehicle dealer maintains a reasonable line of credit for each dealership and the motor vehicle dealer remains in substantial compliance with reasonable facilities' requirements of the manufacturer or distributor. The reasonable facilities' requirements may not include any requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel or display space when the requirements are unreasonable considering current economic conditions in the market area and not otherwise justified by reasonable business considerations. The burden of proving by a preponderance of the evidence that the current economic conditions and reasonable business considerations justify exclusive facilities is on the manufacturer. Voluntary and noncoerced acceptance of such conditions by the motor vehicle dealer in writing for separate and valuable consideration shall not constitute a violation.

(xi) To fail or refuse to sell or offer to sell to all motor vehicle dealers in a line or make, every motor vehicle sold or offered for sale under the franchise agreement to any motor vehicle dealer of the same line or make; or to unreasonably require a motor vehicle dealer to pay an extra fee, purchase unreasonable advertising displays or any other materials, or to unreasonably require the dealer-operator to remodel, renovate or recondition its existing facilities as a prerequisite to receiving a certain model or series of vehicles. However, the failure to deliver any such motor vehicle shall not be considered a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo or other cause of which the manufacturer or distributor has no control. This provision shall not apply to manufacturers of recreational vehicles.

(xii) To condition the sale, transfer, relocation or renewal of a franchise or dealer agreement or to condition sales, services, parts or finance incentives upon site-control agreement; however, voluntary and noncoerced acceptance of such conditions by the motor vehicle dealer in writing, shall not constitute a violation.

(xiii) To assign or change a motor vehicle dealer's market area under the franchise or motor vehicle dealer's agreement arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the motor vehicle dealer's market area, and without first having provided the motor vehicle dealer's with written notice of the change in the motor vehicle dealer's market area and a detailed description of the change and reasons therefor.

(xiv) To attempt to coerce, or coerce, a motor vehicle dealer to adhere to performance standards that are not applied uniformly to other similarly situated motor vehicle dealers.

(xv) To establish any performance standard or program for measuring motor vehicle dealer's performance that may have a material impact on a motor vehicle dealer that is not fair, reasonable and equitable, or applying any such standard or program to a motor vehicle dealer in a manner that is not fair, reasonable and equitable. If dealership performance standards are based on a survey, the manufacturer or distributor shall establish the objectivity of the survey process and provide this information to any motor vehicle dealer covered by the survey request. Within fifteen (15) business days of a request by the motor vehicle dealer, a manufacturer shall disclose in writing to the motor vehicle dealer a description of the performance standard or program and all relevant information used in the application of the performance standard or program to that motor vehicle dealer unless the manufacturer has already provided the information.

(xvi) To increase prices of new motor vehicles which the new motor vehicle dealer had ordered for the ultimate purchasers prior to the motor vehicle dealer's receipt of written official price increase notification. A sales contract signed by the ultimate purchaser that includes model and firm price shall constitute evidence of each such order provided that the vehicle is in fact delivered to that purchaser.

(xvii) To attempt to require, coerce or attempt to coerce any new motor vehicle dealer to sell, offer to sell or sell exclusively an extended service contract, extended maintenance plan or similar product, including, without limitation, GAP products, offered, endorsed or sponsored by the manufacturer or distributor by any of the following means:

1. By an act or statement made by the manufacturer or distributor that will adversely impact the motor vehicle dealer whether it is express or implied; or

2. By a provision in a franchise agreement that the motor vehicle dealer shall sell, offer to sell or sell exclusively an extended service contract, extended warranty plan or similar product offered, endorsed or sponsored by the manufacturer or distributor; or

3. By measuring the motor vehicle dealer's performance under the franchise agreement based on the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor; or

4. By requiring the motor vehicle dealer to actively promote the sale or extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor.

Nothing in this subparagraph shall prohibit a manufacturer or distributor from providing incentive programs to a new motor vehicle dealer who makes the voluntary decision to offer to sell, sell or sell exclusively an extended service contract, extended maintenance plan or similar product offered, endorsed or sponsored by the manufacturer or distributor.

(xviii) To require a motor vehicle dealer to provide its customer lists or service files to the manufacturer or distributor, unless necessary for the sale and delivery of a new motor vehicle to a consumer, to validate and pay consumer or dealer incentives, for reasonable marketing purposes, for evaluation of dealer performance, for analytics or for the submission to the franchisor for any services supplied by the franchisee for any claim for warranty parts or repairs. Nothing in this section shall limit the franchisor's ability to require or use customer information to satisfy any safety or recall notice obligation or other legal obligation.

(xix) To release or cause to be released a motor vehicle dealer's nonpublic customer information to another motor vehicle dealer unless the franchise has been terminated, the customer has relocated to an address that is outside of the motor vehicle dealer's market area, the customer has transacted business with another motor vehicle dealer of the same brand, a customer has not transacted with the dealer from which a vehicle was purchased for a period of nine (9) months, or the motor vehicle dealer consents to the sharing of customer information with other dealers.

(xx) To coerce, attempt to coerce, require or attempt to require any motor vehicle dealer to provide installment financing with a specified financial institution.

(xxi) To require, coerce or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises if such construction or alteration would be unreasonable under the circumstances.

(xxii) To require, coerce or attempt to coerce a dealer or successor dealer to construct or substantially alter a facility or premises if the same area of the facility or premises has been constructed or substantially altered within the last ten (10) years and the construction or alteration was required and approved by the manufacturer as a part of a program, standard or policy, except for improvements made to comply with health or safety laws, or to accommodate the technology requirements necessary to sell or to service a motor vehicle. As used in this subsection, "substantially alter" means an alteration that substantially impacts the architectural features, characteristics, or integrity of a structure or lot. The term does not include routine maintenance reasonably necessary to maintain a dealership in attractive condition, or items directly protected by federal intellectual property rights of the manufacturer. If, during such ten-year period, the manufacturer revises an existing, or establishes a new program, standard, policy, bonus, incentive, rebate, or other benefit for the construction or substantial alteration of a dealership facility or premises, a motor vehicle dealer who completed a facility as a part of a prior program, standard, or policy within the ten-year period and elects not to comply with the applicant's or manufacturer's requirements under the revised or new program, standard, or facility-related policy will not be eligible for any bonus, incentive, rebate, or other benefit under the revised or new program but shall remain entitled to all benefits under the prior program according to the terms of the prior program in place when the dealer began to perform under the program. If the prior program under which the dealer completed a facility construction or substantial alteration does not contain a specific time period during which the manufacturer or distributor must provide payments or benefits to a dealer, then the manufacturer or distributor may not deny the dealer payment or benefits under the terms of that prior program, as it existed when the dealer began to perform under the prior program, for the balance of the ten-year period, regardless of whether the manufacturer's or distributor's facility program has been changed or canceled.

(xxiii) To require, coerce, or attempt to coerce a dealer located in this state to purchase goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source when the dealer may obtain goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer of the same quality, material, and design from a vendor selected by the dealer, provided the dealer obtains prior approval from the manufacturer, distributor or affiliate, for the use of the dealer's selected vendor. Goods shall include signs or sign components to be purchased or leased by the dealer which are not trademarked or otherwise directly protected by the federal intellectual property rights of the manufacturer. Such approval by the manufacturer, distributor or affiliate may not be unreasonably withheld. For purposes of this subdivision, the term "goods" does not include moveable displays, brochures, and promotional materials containing material subject to the intellectual property rights of a manufacturer or distributor, or special tools as reasonably required by the manufacturer, or parts to be used in repairs under warranty or recall obligations of a manufacturer or distributor. If the manufacturer, distributor or affiliate claims that a vendor chosen by the dealer cannot supply goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer which are the same quality, material, and design, the dealer may file a protest with the commission. When a protest is filed, the commission shall promptly inform the manufacturer, distributor, affiliate, or captive finance source that a protest has been filed. The commission shall conduct a hearing on the merits of the protest within ninety (90) days following the filing of a response to the protest. The manufacturer, distributor or affiliate shall bear the burden of proving that the goods or facility construction or maintenance services for items not trademarked or otherwise directly protected by federal intellectual property rights of the manufacturer chosen by the dealer are not of the same quality, material or design to those required by the manufacturer, distributor or affiliate.

This paragraph (d) shall not apply to manufacturers of motor homes governed by the provisions of Sections 63-17-201 through 63-17-221.

(2) Concerning any sale of a motor vehicle or vehicles to the State of Mississippi, or to the several counties or municipalities thereof, or to any other political subdivision thereof, no manufacturer, distributor or wholesaler shall offer any discounts, refunds, or any other similar type inducements to any dealer without making the same offer or offers to all other of its dealers within the state. If the inducements above mentioned are made, the manufacturer, distributor or wholesaler shall give simultaneous notice thereof to all of its dealers within the state.

(3) It is unlawful to be a broker. For the purpose of this subsection, "broker" means a person who, for a fee, commission or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle, and who is not:

(a) A new motor vehicle dealer or agent or employee of such a dealer; or

(b) A distributor or an agent or employee of such a distributor.

However, an individual shall not be deemed to be a broker if he or she is the owner of the new or used motor vehicle which is the object of the brokering transaction.

(4)(a) For purposes of this subsection, the term "Stop-Sale" or "Do-Not-Drive" order means a notification issued by a manufacturer to its franchised new motor vehicle dealers stating that certain used vehicles in inventory shall not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance, or a federal emissions recall.

(b) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs shall be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line-make within thirty (30) days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a Stop-Sale or Do-Not-Drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent (1%) of the value of the vehicle per month beginning on the date that is thirty (30) days after the date on which the Stop-Sale or Do-Not-Drive order was provided to the dealer until the earlier of either of the following:

(i) The date the recall or remedy parts are made available; or

(ii) The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(c) The value of a used vehicle shall be the average trade-in value for used vehicles as indicated in an independent third party guide for the year, make, and model, of the recalled vehicle.

(d) This subsection shall apply only to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations adopted thereunder and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for thirty (30) days or longer. This subsection further shall apply only to new motor vehicle dealers holding an affected used vehicle for sale:

(i) In inventory at the time the Stop-Sale or Do-Not-Drive order was issued; or

(ii) Which was taken in the used vehicle inventory of the dealer as a consumer trade-in incident to the purchase of a new vehicle from the dealer after the Stop-Sale or Do-Not-Drive order was issued; and

(iii) That are a line-make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(e) It shall be a violation of this subsection for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual dealer from an incentive program or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this subsection. This subsection shall not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the state.

(f) All reimbursement claims made by new motor vehicle dealers pursuant to this subsection for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order shall be subject to the same limitations and requirements as a warranty reimbursement claim made under paragraph (j) of Section 63-17-85. In the alternative, a manufacturer may compensate its franchised dealers under a national recall compensation program provided the compensation under the program is equal to or greater than that provided under paragraph (b); or the manufacturer and dealer otherwise agree.

(g) A manufacturer may direct the manner and method in which a dealer must demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this subsection, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to the dealer.

(h) Nothing in this subsection shall require a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under paragraph (b) of this subsection (4).

(i) If a recall remedy for an affected use motor vehicle is available under a federal statute or regulation, then a dealer may opt to be compensated under either the federal statute or authority of this subsection but may not combine the remedies.

HISTORY: Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478, § 5; reenacted without change, Laws, 1983, ch. 344, § 12; reenacted without change, Laws, 1991, ch. 305, § 12; Laws, 1994, ch. 399, § 3; Laws, 2000, ch. 418, § 9; Laws, 2006, ch. 432, § 4; Laws, 2014, ch. 349, § 3; Laws, 2014, ch. 532, § 12, eff from and after Oct. 1, 2014; Laws, 2019, ch. 394, § 1, eff from and after July 1, 2019.

Joint Legislative Committee Note — Section 3 of Chapter 349, Laws of 2014, effective from and after July 1, 2014 (approved March 17, 2014), amended this section. Section 12 of Chapter 532, Laws of 2014, effective from and after October 1, 2014 (approved April 24, 2014), also amended this section. As set out above, this section reflects the language of Section 12 of Chapter 532, Laws of 2014, which contains language that specifically provides that it supersedes § 63-17-73 as amended by Chapter 349, Laws of 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:

"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

Amendment Notes — The first 2014 amendment (ch. 349), effective July 1, 2014, redesignated former (b)(1) through (b)(3) as (b)(i) through (b)(iii) and added (b)(iv); redesignated former (c)(1) through (c)(4) as (c)(i) through (c)(iv); rewrote (d) and changed its designation structure, adding new (d)(iv), (d)(xii), (d)(xiii), (d)(xv), (d)(xvii) through (d)(xx).

The second 2014 amendment (ch. 532), effective October 1, 2014, redesignated former (b)(1) through (b)(3) as (b)(i) through (b)(iii) and added (b)(iv); redesignated former (c)(1) through (c)(4) as (c)(i) through (c)(iv) and added the second paragraph; rewrote (d) and changed its designation structure, adding new (d)(iv), (d)(xii), (d)(xiii), (d)(xv), (d)(xvii) through (d)(xx).

The 2019 amendment, in (1), deleted "and a misdemeanor" at the end of the introductory paragraph, and added (1)(d)(xxi) through (xxiii); and added (4).

JUDICIAL DECISIONS

3. Filing of complaint.

Car dealer's complaint was timely filed with the Mississippi Motor Vehicle Commission following the car dealer's receipt from an automobile manufacturer of a notice of termination of a dealership agreement because the car dealer filed its verified complaint within the sixty day notice period—the sixty days preceding the effective date of termination. Nissan N. Am., Inc. v. Tillman, 273 So. 3d 710, 2019 Miss. LEXIS 220 (Miss. 2019).

§ 63-17-74. Sale of motor vehicle not titled and registered in name of seller prohibited; exceptions; penalty for violation.

(1) It is unlawful for a person to sell a motor vehicle that is not titled and registered in the name of that person unless the person is:

(a) An heir, successor or assignee of the owner of the motor vehicle;

(b) A motor vehicle dealer licensed or permitted in the State of Mississippi to sell motor vehicles;

(c) A person selling a motor vehicle to a licensed used motor vehicle parts dealer or scrap metal processor in compliance with Section 63-21-39;

(d) A person selling a motor vehicle under the Mississippi Title Pledge Act;

(e) An insurance company or its authorized agent selling a motor vehicle that is the subject of an insurance claim;

(f) A finance company or bank selling a motor vehicle; or

(g) A wrecker service or automobile repair service/business selling a motor vehicle that is legally being held for sale as merchandise.

All local and state law enforcement agencies have jurisdiction to enforce this section.

(2) Any person who violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) per violation.

HISTORY: Laws, 2013, ch. 522, § 1, eff from and after July 1, 2013; Laws, 2020, ch. 462, § 2, eff from and after passage (approved July 8, 2020).

Amendment Notes — The 2020 amendment, effective July 8, 2020, in (1), added (g) and made related changes.

§ 63-17-75. Applications for licenses.

Within ninety (90) days after July 1, 1970, all persons who on July 1, 1970, are engaged in a business or occupation for which a license is required under the Mississippi Motor Vehicle Commission Law shall make application on forms prescribed by the commission for their respective licenses. All such persons shall be permitted, without a license, to continue to engage in the business or occupation for which a license is applied for until the license is either granted or, in case it is denied, until the applicant has exhausted or has had an opportunity to exhaust all of his remedies under Section 63-17-99. No person not engaged in a business or occupation requiring such a license on July 1, 1970, shall be permitted to engage in such business or occupation until he shall have first obtained a license to engage in such business or occupation.

Applications for licenses shall be verified by the oath or affirmation of the applicants and shall be on forms prescribed by the commission and furnished to such applicants. Applications shall contain such information as the commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The commission shall require that there be set forth in each application information relating to the applicant's financial standing, the applicant's business integrity, whether the applicant has an established place of business and is primarily engaged in the pursuit, avocation or business for which a license or licenses is applied for, and whether the applicant is able to properly conduct the business for which a license or licenses is applied for, and such other pertinent information consistent with the safeguarding of the public interest and public welfare. Applications for license as a motor vehicle dealer shall, in addition to the foregoing, be accompanied by the filing with the commission of a bona fide contract or franchise then in effect between the applicant and a manufacturer, distributor or wholesaler of the new motor vehicle or vehicles proposed to be dealt in, unless such contract or franchise has already been filed with the commission in connection with a previous application made by such applicant, in which event the applicant shall, in lieu of again filing the contract or franchise, identify the contract or franchise by appropriate reference and file all revisions and additions, if any, which have been made to said contract or franchise. The applicant must furnish satisfactory evidence that he or it maintains adequate space in the building or structure wherein his or its established business is conducted for the display of new motor vehicles, or he will have such facilities within a reasonable time after receiving a license, and that he or it has or will have adequate facilities in said building or structure for the repair and servicing of motor vehicles and the storage of new parts and accessories for same. However, the failure to furnish the evidence called for in the preceding sentence shall not constitute sufficient cause for denying a license to any motor vehicle dealer who on July 1, 1970, was an enfranchised new motor vehicle dealer in this state of a manufacturer, distributor or wholesaler of new motor vehicles and who continued to be such a dealer from such date until application was made for a license as a motor vehicle dealer.

New applications for licenses as a new, used or wholesale motor vehicle dealer shall, in addition to the foregoing, be accompanied by the filing with the commission of a corporate surety bond in the penal sum of Twenty-five Thousand Dollars ($25,000.00) on a bond form approved by the commission. However, an applicant for licenses at multiple locations may choose to provide a corporate surety bond in the penal sum of One Hundred Thousand Dollars ($100,000.00) covering all licensed locations of the same capacity in lieu of separate bonds for each location.

The bond shall be in effect upon the applicant being licensed and shall be conditioned upon his complying with the provisions of the Mississippi Motor Vehicle Commission Law. The bond shall be an indemnity for any loss sustained by any person by reason of the acts of the person bonded when those acts constitute grounds for the suspension or revocation of license. The bond shall be executed in the name of the State of Mississippi for the benefit of any aggrieved party. The aggregate liability of the surety for any claimants, regardless of the number of years this bond is in force or has been in effect, shall not exceed the amount of the bond. The proceeds of the bond shall be paid upon receipt by the commission of a final judgment from a Mississippi court of competent jurisdiction against the principal and in favor of an aggrieved party.

New, used and wholesale motor vehicle dealers shall be required to maintain motor vehicle liability insurance providing blanket coverage on vehicles operated on the public streets and highways of this state, including vehicles in dealership inventory unless the motor vehicle dealer's inventory does not have a motor. Evidence of liability insurance for business and inventory vehicles shall be filed with the application for license, and the application for license shall be denied if proof of liability insurance satisfactory to the Department of Revenue is not provided.

HISTORY: Codes, 1942, § 8071.7-05; Laws, 1970, ch. 478 § 5; reenacted without change, Laws, 1983, ch. 344, § 13; reenacted without change, Laws, 1991, ch. 305, § 13; Laws, 2000, ch. 418, § 10; Laws, 2015, ch. 400, § 3, eff from and after July 1, 2015; Laws, 2019, ch. 325, § 1, eff from and after July 1, 2019.

Amendment Notes — The 2015 amendment inserted "used or wholesale" in the first sentence of the third paragraph and added the last paragraph..

The 2019 amendment added "unless the motor vehicle dealer's inventory does not have a motor" at the end of the first sentence of the last paragraph.

§ 63-17-95. Hearings; conduct; decisions.

JUDICIAL DECISIONS

1. Cross-examination.

Mississippi Motor Vehicle Commission did not improperly limit a competitor's right to cross-examine a witness in proceedings in which the competitor contested a manufacturer's approval of a dealer's relocation request because (1) only the witness's affidavit was admitted, (2) cross-examination was limited to the affidavit, and (3) the competitor chose not to conduct cross-examination. GM, LLC v. Ryan Motors, Inc., 271 So. 3d 563, 2018 Miss. App. LEXIS 565 (Miss. Ct. App. 2018).

§ 63-17-101. Recovery of damages and attorney fees by licensee.

JUDICIAL DECISIONS

1. Attorney's fees.

In proceedings in which a competitor contested a manufacturer's approval of a dealer's relocation request, it was error to award the competitor attorney's fees because a trial court's decision in the competitor's favor was reversed. GM, LLC v. Ryan Motors, Inc., 271 So. 3d 563, 2018 Miss. App. LEXIS 565 (Miss. Ct. App. 2018).

§ 63-17-111. Owner of dealership may appoint successor by written agreement; manufacturer or dealer must honor succession unless good cause shown; procedure for refusing to honor succession.

(1) Notwithstanding the terms of any franchise agreement, any dealer-operator may appoint by will, or other written instrument, a designated successor to succeed in the ownership of the dealer-operator in the dealership upon the death or incapacity of the dealer-operator.

(2) Unless good cause exists for the refusal to honor the succession on the part of the manufacturer or distributor, any designated successor of a deceased or incapacitated dealer-operator of a dealership may succeed to the ownership of the motor vehicle dealership under the existing franchise agreement if:

(a) The designated successor gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the motor vehicle dealership within sixty (60) days after the dealer-operator's death or incapacity; and

(b) The designated successor agrees to be bound by all the terms and conditions of the sales and service agreement.

(3) The manufacturer or distributor may request, and the designated successor shall provide promptly upon such request, personal and financial data reasonably necessary to determine whether the succession should be honored.

(4)(a) If the manufacturer or distributor believes that good cause exists for refusing to honor the succession of a deceased or incapacitated dealer, the manufacturer or distributor may, not more than sixty (60) days following receipt of the notice of the designated successor's intent to succeed and receipt of such personal and financial data, serve upon the designated successor notice of its refusal to honor the proposed succession and of its intent to terminate the existing franchise with the dealer-operator not earlier than six (6) months from the date such notice of refusal is served.

(b) Such notice shall state the specific grounds for the refusal to honor the succession.

(c) If such notice is not timely served upon the designated successor, the franchise agreement shall continue in effect subject to termination only as otherwise provided by the Mississippi Motor Vehicle Commission Law.

(5) In determining whether good cause for the refusal to honor the succession exists, the manufacturer or distributor has the burden of proving that the designated successor is not of good moral character or does not otherwise meet the manufacturer's or distributor's reasonable standards for a dealer-operator.

(6) If a manufacturer or distributor refuses to honor the succession to the ownership interest of a deceased or incapacitated dealer-operator for good cause, the manufacturer or distributor shall allow the designated successor a reasonable period of time, which shall not be less than six (6) months, in which to consummate the sale of the dealership.

(7) Changes in the ownership of a new motor home dealership shall be governed by the provisions of Sections 63-17-201 through 63-17-221.

HISTORY: Laws, 2000, ch. 418, § 3; Laws, 2014, ch. 532, § 13, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

Amendment Notes — The 2014 amendment substituted "sales and service" for "franchise" in (2)(b) and added (7).

§ 63-17-113. Modification of franchise agreement; good cause required for termination, cancellation or nonrenewal.

JUDICIAL DECISIONS

1. Notice.

It was not arbitrary or capricious for the Mississippi Motor Vehicle Commission to dismiss a competitor's contest of a manufacturer's approval of a dealer's relocation because (1) the competitor was not entitled to notice either statutorily or under the competitor's Dealer Sales and Service Agreement (SSA), as the competitor's SSA was not modified, and (2) the competitor only speculated that the competitor's Area of Primary Responsibility would change. GM, LLC v. Ryan Motors, Inc., 271 So. 3d 563, 2018 Miss. App. LEXIS 565 (Miss. Ct. App. 2018).

§ 63-17-117. Warranty or sales incentive audits to be conducted within certain amount of time after payment of disputed claim or end of incentive or rebate program; approved and paid claims not to be charged back to dealer absent fraud, improper repair, or failure to substantiate claim.

(1) Notwithstanding the terms of any franchise agreement, warranty and sales incentive audits of a motor vehicle dealer's records may be conducted by the manufacturer or distributor. Any audit for warranty parts or service compensation shall be performed within the twelve-month period immediately following the date of the payment of the disputed claim by the manufacturer or distributor. Any audit for sales incentives, service incentives, rebates or other forms of incentive compensation shall be performed within the twelve-month period immediately following the date of the payment of the disputed claim by the manufacturer or distributor or the end of the program during which the incentives, service incentives, rebates or other forms of incentives compensation were offered, whichever is later.

(2) No claim which has been approved and paid may be charged back to the motor vehicle dealer unless it can be shown by a preponderance of the evidence that the claim was false or fraudulent, that the repairs were not properly made or were unnecessary to correct the defective conditions under generally accepted standards of workmanship, or that the motor vehicle dealer failed to reasonably substantiate the repair in accordance with the manufacturer's or distributor's reasonable written claim requirement.

(3) A manufacturer or distributor shall not deny a claim based solely on a motor vehicle dealer's incidental failure to comply with a specific claim processing requirement such as a clerical error or other administrative technicality that does not call into question the legitimacy of a claim. A motor vehicle dealer may submit an amended or supplemental claim within the time and manner required by the manufacturer for sales incentives, service incentives, rebates or other forms of incentives compensation for up to sixty (60) days from the date on which such a claim was submitted or could have been submitted.

(4) Limitations on warranty parts, service compensation, sales incentive audits, rebates or other forms of incentive compensation, chargebacks for warranty parts or service compensation, and service incentives and chargebacks for sales compensation only, shall not be effective in the case of intentionally false or fraudulent claims.

HISTORY: Laws, 2000, ch. 418, § 6; Laws, 2014, ch. 349, § 4, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment in (1), substituted "twelve-month" for "eighteen month" and "twelve-month" for "24-month" and added "or the end . . . whichever is later" in the last sentence; in (3), substituted "such as" for "that results in" and added "what does not . . . have been submitted." at the end.

§ 63-17-118. Manufacturer or distributor to compensate motor vehicle dealer upon termination, cancellation or nonrenewal of franchise or discontinuation of motor vehicle line or make or parts essential to line or make.

(1) Upon any termination, cancellation, refusal to continue, or refusal to renew any franchise or any discontinuation of any line or make of motor vehicle or parts essential to such line or make, the manufacturer or distributor shall pay reasonable compensation to the motor vehicle dealer as follows:

(a)(i) The motor vehicle dealer's net cost for any new, unused, undamaged, unregistered, unmodified and unsold vehicle with a gross vehicle weight rating of sixteen thousand (16,000) pounds or less of the current and prior model year with less than seven hundred fifty (750) miles on the odometer that is in the motor vehicle dealer's inventory and was purchased from the manufacturer or another motor vehicle dealer of the same line or make in the ordinary course of business.

(ii) The motor vehicle dealer's net cost for any new, unused, undamaged, unregistered, unmodified and unsold vehicle with a gross vehicle weight rate of more than sixteen thousand (16,000) pounds of the current and prior model year that is in the motor vehicle dealer's inventory and was purchased from the manufacturer or another motor vehicle dealer of the same line or make in the ordinary course of business.

(iii) The manufacturer or distributor shall have no obligation to repurchase a motor vehicle if the motor vehicle has been modified to the extent that the modifications are so significant as to void the manufacturer's warranty or has been substantially altered to the prejudice of the manufacturer or distributor. The manufacturer or distributor shall have no obligation to repurchase any parts used to modify the motor vehicle that were not produced by or for the manufacturer or distributor.

(b) The motor vehicle dealer's net cost of each new, unused and undamaged part or accessory listed in the manufacturer or distributor's current parts catalog and in the original, resalable merchandising packages. In the case of sheet metal, a comparable substitute for the original package shall be sufficient. New or reconditioned core parts shall be valued at their core value, listed in the original vehicle manufacturer's or distributor's current parts catalog. If the part or accessory was purchased by the motor vehicle dealer from another authorized same line or make motor vehicle dealer in the ordinary course of business, the manufacturer shall purchase the part or accessory for the price in the current parts catalog. The motor vehicle dealer shall maintain accurate records regarding the actual purchase price of parts that the manufacturer or distributor is required to purchase under this paragraph.

(c) In addition to the costs referenced in paragraphs (a) and (b) of this subsection, the manufacturer shall pay the motor vehicle dealer an additional five percent (5%) charge based on the total compensation due under this section for handling, packing, storing and loading of any parts subject to repurchase pursuant to this section and the manufacturer shall pay for shipping the vehicles subject to repurchase from the location of the motor vehicle dealer to the location directed by the manufacturer.

(d) The manufacturer shall pay the motor vehicle dealer the amounts specified in this subsection within ninety (90) days after the tender of the property, subject to the motor vehicle dealer providing evidence of good and clear title upon return of property to the manufacturer. The manufacturer shall remove the property from the motor vehicle dealer's premises within one hundred eighty (180) days after the tender of the property.

(2) In the event a manufacturer or distributor cancels, refuses to continue, or refuses to renew any franchise or discontinues any line or make or parts essential to such line or make, in addition to the compensation provided in subsection (1) of this section, the manufacturer or distributor shall pay reasonable compensation to the motor vehicle dealer as follows:

(a) In the event a motor vehicle dealer leases the dealership facilities, then the manufacturer shall be liable for twelve (12) months payment of the gross rent or the remainder of the term of the lease, whichever is less. If the dealership facilities are not leased, then the manufacturer shall be liable for the equivalent of twelve (12) months payment of gross rent based upon the fair market value of the dealership facilities. The gross rent shall be paid only to the extent that the dealership premises are recognized in the franchise and only if they are used solely for performance in accordance with the franchise and not substantially in excess of those facilities recommended by the manufacturer or distributor. If the facility is used for the operations of more than one (1) franchise, the gross rent compensation shall only include the prorated value of the square footage used exclusively for the terminated franchise or line or make at the time of termination. This paragraph shall not apply to a termination, cancellation or nonrenewal due to a sale of the assets or stock of the motor vehicle dealership. In addition to the gross rent, the manufacturer is required to pay the dealer the net cost of any upgrades or other alterations made by the motor vehicle dealer to the dealership facilities which were required in writing by the manufacturer and made by the motor vehicle dealer within two (2) years prior to the effective date of termination. Nothing in this paragraph shall be construed to relieve a motor vehicle dealer of its obligation to mitigate damages upon termination, cancellation, or nonrenewal. As used in this paragraph "Gross rent" is the monthly rent plus the monthly cost of insurance and taxes.

(b) The manufacturer shall pay the motor vehicle dealer for the value of twelve (12) months of any outstanding amounts on any leases or the remaining amount of the lease, whichever is less, of computer hardware or software that is exclusively used to manage and report data of the terminated line or make to the manufacturer or distributor for financial reporting requirements.

(c) The manufacturer shall pay the motor vehicle dealer for the value of twelve (12) months or the remaining amount of the lease, whichever is less of any outstanding amounts on any manufacturer or distributor required equipment leases, service contracts, and sign leases.

(d) The fair market value of each undamaged sign owned by the motor vehicle dealer which bears a trademark or trade name used or claimed by the manufacturer if the sign was purchased from, or purchased at a requirement of, the manufacturer, plus the costs of installing the sign and the costs of purchasing and installing any pole upon which the sign is located. During the first three (3) years after its purchase, the fair market value of each sign shall be the motor vehicle dealer's net costs of purchasing the sign. Thereafter, the fair market value of the sign shall be the greater of its actual market value or its depreciated value on the books of the motor vehicle dealer.

(e) The fair market value of all tools, data processing programs and equipment and automotive service equipment owned by the motor vehicle dealer which are exclusively used for the line or make being terminated and which were required in writing and designated as equipment, tools, data processing programs and equipment, and automotive service equipment and purchased from, or purchased as a requirement of, the manufacturer if the equipment, tools, programs and equipment are in usable and good condition, except for reasonable wear and tear. During the first three (3) years after their purchase, the fair market value of each item of equipment, tools, programs, and equipment shall be the motor vehicle dealer's net cost associated with purchasing the items. Thereafter, the fair market value of each item shall be the greater of its actual market value or its depreciated value on the books of the motor vehicle dealer.

(f) In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon the manufacturer discontinuing the sale in this state of a line or make that was the subject of the franchise, then the manufacturer shall also be liable to the motor vehicle dealer for an amount at least equivalent to the fair market value of the motor vehicle dealer's franchise for the discontinued line or make as of:

(i) The date immediately preceding the date the manufacturer announces the action which results in termination, cancellation, or nonrenewal; or

(ii) The day twelve (12) months prior to the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher.

At the motor vehicle dealer's option, the manufacturer may avoid paying fair market value of the motor vehicle franchise to the motor vehicle dealer under this paragraph if the manufacturer, or another motor vehicle manufacturer pursuant to an agreement with the manufacturer, offers the motor vehicle dealer a replacement motor vehicle franchise with terms substantially similar to that offered to other same line or make motor vehicle dealers.

(g) The manufacturer shall pay the motor vehicle dealer the amounts specified in this subsection along with any other amounts that may be due to the motor vehicle dealer under the franchise agreement within ninety (90) days after the tender of the property, subject to the motor vehicle dealer providing evidence of good and clear title upon return of the property to the manufacturer. The manufacturer shall remove the property within one hundred eighty (180) days after the tender of the property from the motor vehicle dealer's premises. Unless previous arrangements have been made and agreed upon, the motor vehicle dealer is under no obligation to provide insurance for the property left after one hundred eighty (180) days.

(3) This section shall not apply to any sale, exchange, inheritance, gift or other transfer of ownership, stock, assets, management, or any other rights of the motor vehicle dealer, or to any termination for good cause, including, but not limited to, a conviction for a felony involving moral turpitude, for failure to conduct business for seven (7) consecutive business days or eight (8) business days out of any fifteen-day business period, for insolvency of the motor vehicle dealer or for loss of license to sell motor vehicles, or where there is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of a material significance to the franchise relationship provided that the dealer has been notified in writing of the failure.

(4) This section shall not apply to motor homes.

HISTORY: Laws, 2014, ch. 349, § 1, eff from and after July 1, 2014.

DEALER CONTRACTS

Sec.
63-17-131. Filing and approval of dealer contracts.
63-17-141. Repealed.

§ 63-17-131. Filing and approval of dealer contracts.

Any person, partnership, association of persons or corporation engaged in the manufacture and/or distribution of motor vehicles, whether resident or nonresident of the State of Mississippi, transacting the business of manufacturing, distribution, or sale of motor vehicles or the parts or accessories thereof in the State of Mississippi, shall file in the Office of the Secretary of State the form of a contract which is to be entered into between such manufacturer with its agent, dealer or representative in this state. Upon the approval by the Attorney General of the contract, the contract shall become binding on all parties thereto. The failure to file the contract with the Secretary of State as provided herein and to secure the approval thereof of the Attorney General of the state, shall render the contract unenforceable. This section shall not apply to dealers or manufacturers of motor homes governed by the provisions of Sections 63-17-201 through 63-17-221.

HISTORY: Codes, 1942, § 8072; Laws, 1935, ch. 35; Laws, 2014, ch. 532, § 14, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:

"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

Amendment Notes — The 2014 amendment added the last sentence and substituted "the" for "such" in the second and third sentences.

§ 63-17-141. Repealed.

Repealed by Laws, 2014, ch. 349, § 5, effective July 1, 2014.

§ 63-17-141. [Laws, 1994, ch. 399, § 1; Laws, 2010, ch. 395, § 1, eff from and after July 1, 2010.]

Editor's Notes — Former § 63-17-141 provided the duties of dealers and manufacturers of motor vehicles upon termination or renewal of franchise agreements.

MOTOR VEHICLE WARRANTY ENFORCEMENT ACT

§ 63-17-151. Short title.

JUDICIAL DECISIONS

1. Relation to federal law.

Although the Mississippi Motor Vehicle Warranty Enforcement Act does share some characteristics with the Magnuson-Moss Warranty Act, when the statutes as a whole are compared to the Magnuson-Moss Act, the Mississippi Uniform Commercial Code (UCC) is most analogous. Therefore, a trial court erred by finding that the claims filed by two vehicle purchasers were barred by the statute of limitations because a six-year limitations period under the UCC applied. Broome v. GM, LLC, 145 So. 3d 645, 2014 Miss. LEXIS 408 (Miss. 2014).

§ 63-17-159. Replacement of vehicle or refund of purchase price where nonconformity cannot be corrected; affirmative defenses; presumption of reasonable attempts to conform vehicle to warranties; extension of warranties; notice requirements relating to repair of nonconformity; civil actions.

JUDICIAL DECISIONS

ANALYSIS

2. Relation to federal law.
3. Failure to comply.

2. Relation to federal law.

Although the Mississippi Motor Vehicle Warranty Enforcement Act does share some characteristics with the Magnuson-Moss Warranty Act, when the statutes as a whole are compared to the Magnuson-Moss Act, the Mississippi Uniform Commercial Code (UCC) is most analogous. Therefore, a trial court erred by finding that the claims filed by two vehicle purchasers were barred by the statute of limitations because a six-year limitations period under the UCC applied. Broome v. GM, LLC, 145 So. 3d 645, 2014 Miss. LEXIS 408 (Miss. 2014).

3. Failure to comply.

Circuit court properly granted summary judgment to an automobile manufacturer and dealer (jointly, the sellers) in a buyer's breach of warranty action because the buyer presented no evidence that the vehicle had manufacturing defects or that his complaints were not part of the normal function of the vehicle, it was undisputed that the sellers were not given at least three attempts to repair the alleged defects or that the alleged defects impaired the use or market value of the vehicle or put the vehicle out of service for 15 or more days, and an inspection of the vehicle found that it operated normally, all the evidence presented showed that the vehicle was new when purchased by the buyer. Lindsey v. Ford Motor Co., 271 So. 3d 757, 2018 Miss. App. LEXIS 651 (Miss. Ct. App. 2018).

RECREATIONAL VEHICLE FRANCHISE LAW

Sec.
63-17-201. Definitions.
63-17-203. Written agreements; designated territories.
63-17-205. Termination, cancellation, nonrenewal and alteration of a dealership.
63-17-207. Repurchase of inventory.
63-17-209. Transfer of dealership; family succession.
63-17-211. Warranty obligations.
63-17-213. Indemnification.
63-17-215. Inspection and rejection by dealer.
63-17-217. Coercion of dealer prohibited.
63-17-219. Mediation.
63-17-221. Selling at shows.

§ 63-17-201. Definitions.

As used in Sections 63-17-201 through 63-17-221, the following terms shall have the meanings ascribed unless the context clearly indicates otherwise:

(a) "Area of sales responsibility" means the geographical area, agreed to by the dealer and the manufacturer in the manufacturer-dealer agreement, within which area the dealer has the exclusive right to display or sell the manufacturer's new recreational vehicles of a particular line-make to the retail public.

(b) "Dealer" means any firm, corporation, partnership, individual proprietorship or other type of business enterprise whose principle business is the selling at retail of one or more of the six (6) types of recreational vehicles commonly known as travel trailers, fifth wheels, motor homes, park-model RVs, truck campers and camping trailers. The entity must maintain a permanent business establishment including service/repair facilities, open essentially twelve (12) months a year, must offer mechanical service for the vehicles it sells and must be duly licensed by the Mississippi Motor Vehicle Commission.

(c) "Distributor" means any person, firm, corporation or business entity that purchases new recreational vehicles for resale to dealers.

(d) "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle owners or dealers in order to address a part or equipment issue.

(e) "Family member" means a spouse, child, grandchild, parent, sibling, niece or nephew, or the spouse thereof.

(f) "Line-make" means a specific series of recreational vehicle products that:

(i) Are identified by a common series trade name or trademark;

(ii) Are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight and price range;

(iii) Have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same decor, equipment, features, price and weight;

(iv) Belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame and body; and

(v) The manufacturer-dealer agreement authorizes a dealer to sell.

(g) "Manufacturer" means any person, firm, corporation or business entity that engages in the manufacturing of recreational vehicles.

(h) "Manufacturer-dealer agreement" means a written agreement or contract entered into between a manufacturer and a dealer that fixes the rights and responsibilities of the parties and pursuant to which the dealer sells new recreational vehicles.

(i) "Proprietary part" means any part manufactured by or for and sold exclusively by the manufacturer.

(j) "Nonsanctioned recreational show event" means any event where one or more recreational vehicle dealers attend and the event is conducted by a licensed Mississippi Recreational Vehicle Dealer.

(k)(i) "Recreational vehicle" means a vehicle that:

1. Is primarily designed as a vehicle that also provides temporary living quarters for noncommercial, recreational or camping use;

2. Is built to the National Fire Protection Association 1192 standard for recreational vehicles;

3. Has its own motive power or is mounted on or towed by another vehicle;

4. Is regulated by the National Highway Traffic Safety Administration as a vehicle or vehicle equipment;

5. Does not require a special highway use permit for operation on the highways; and

6. An individual can easily transport and set-up on a daily basis.

(ii) "Recreational vehicles" includes, but is not limited to, the following:

1. Motor home: A motorized, vehicular unit designed to provide temporary living quarters for recreational, camping or travel use.

2. Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle.

3. Fifth-wheel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use of such size and weight as to not require a special highway

movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

4. Camping trailer: A vehicular unit that is mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

5. Truck camper: A portable unit that is constructed to provide temporary living quarters for recreational, travel or camping use, consists of a roof, floor and sides, and is designed to be loaded onto and unloaded from the back of a pickup truck.

6. "Park-model RV" means a unit that is:

a. Designed and marketed primarily as temporary living quarters for recreational, camping, travel, or seasonal use, and not for use as a permanent dwelling;

b. Between three hundred twenty (320) and four hundred (400) square feet based on the exterior dimensions of the structure measured at the largest horizontal projections, when erected on site, including all space that has a ceiling height of more than five (5) feet and any expandable room, slide-out, tip-out, or tag-along unit;

c. Built on a single chassis and not designed to accept additional structures, add-ons or other additions that will increase the area as determined in subitem b in excess of four hundred (400) square feet;

d. Built pursuant to a third-party inspection and certification process; and

e. Built to the ANSI A119.5, Park Model RV Standard.

(*l*) "Sanctioned recreational show event" means any event where one or more recreational vehicle dealers attend and the event is conducted by someone other than a licensed Mississippi Recreational Vehicle Dealer.

(m) "Supplier" means any person, firm, corporation or business entity that engages in the manufacturing of recreational vehicle parts, accessories or components.

(n) "Transient customer" means a customer owns a recreational vehicle, is temporarily traveling through a dealer's area of sales responsibility, engages the dealer to perform service work on the vehicle and whose recreational vehicle requires repairs that relate to the safe operations of that recreational vehicle.

(o) "Warrantor" means any person, firm, corporation or business entity, including any manufacturer or supplier, that provides a written warranty to the consumer in connection with a new recreational vehicle or parts, accessories or components thereof. The term also includes a dealer or other person not controlled by a manufacturer who sells service contracts, mechanical or other insurance, or extended warranties for separate consideration.

HISTORY: Laws, 2014, ch. 532, § 1, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-203. Written agreements; designated territories.

(1) A manufacturer or distributor may not sell a recreational vehicle in this state to or through a dealer without having first entered into a manufacturer-dealer agreement with a dealer that has been signed by both parties.

(2) The manufacturer shall designate the area of sales responsibility exclusively assigned to a dealer in the manufacturer-dealer agreement and may not change the contract area or contract with another dealer for sale of the same line-make in the designated area during the duration of the agreement.

(3) The area of sales responsibility may not be revised or changed without the consent of both parties for one (1) year after the execution of the manufacturer-dealer agreement. Upon renewal both parties must agree on stocking requirements.

(4) A recreational vehicle dealer may not sell a new recreational vehicle in this state without having first entered into a manufacturer-dealer agreement with a manufacturer or distributor that has been signed by both parties. The manufacturer-dealer agreement must be filed with the Mississippi Motor Vehicle Commission.

(5) For any new recreational vehicle dealer licensee without an established dealership in this state, there shall be a thirty-day waiting period after the date the application has been approved by the Mississippi Motor Vehicle Commission before the new licensee may commence retail operations.

(6) A recreational vehicle manufacturer may not offer to sell or sell any new recreational vehicle to any recreational vehicle dealer at a lower actual price than the actual price charged to any other recreational vehicle dealer for the same line-make vehicle similarly equipped. This subsection shall not be construed to prevent the offering of volume discounts if such discounts are equally available to all franchised dealers in this state.

HISTORY: Laws, 2014, ch. 532, § 2, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-205. Termination, cancellation, nonrenewal and alteration of a dealership.

(1) **Manufacturer or distributor termination.** — (a) A manufacturer or distributor, directly or through any authorized officer, agent or employee, may not terminate, cancel or fail to renew a manufacturer-dealer agreement without good cause. If the manufacturer or distributor terminates, cancels or fails to renew the manufacturer-dealer agreement without good cause, the

manufacturer or distributor must comply with Section 63-17-207. If the manufacturer or distributor terminates, cancels or fails to renew the manufacturer-dealer agreement for good cause, Section 63-17-207 does not apply.

(b) The manufacturer or distributor has the burden of showing good cause for terminating, canceling or failing to renew a manufacturer-dealer agreement with a dealer. For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered:

(i) The extent of the affected dealer's penetration in the area of sales responsibility.

(ii) The nature and extent of the dealer's investment in its business.

(iii) The adequacy of the dealer's service facilities, equipment, parts, supplies and personnel.

(iv) The effect of the proposed action on the community.

(v) The extent and quality of the dealer's service under recreational vehicle warranties.

(vi) The failure to follow agreed-upon procedures or standards related to the overall operation of the dealership.

(vii) The dealer's performance under the terms of its manufacturer-dealer agreement.

(c) Except as otherwise provided in this section, a manufacturer or distributor shall provide a dealer with at least ninety (90) days' prior written notice of termination, cancellation or nonrenewal of the manufacturer-dealer agreement if the dealer is being terminated for good cause.

(i) The notice must state all reasons for the proposed termination, cancellation or nonrenewal and must further state that if, within thirty (30) days following receipt of the notice the dealer provides to the manufacturer or distributor a written notice of intent to cure all claimed deficiencies, the dealer will then have ninety (90) days following receipt of the notice to rectify the deficiencies. If the deficiencies are rectified within ninety (90) days, the manufacturer's or distributor's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies in the prescribed time period, the termination, cancellation or nonrenewal takes effect thirty (30) days after the dealer's receipt of the notice unless the dealer has new and untitled inventory on hand that may be disposed of pursuant to Section 63-17-207.

(ii) The notice period may be reduced to thirty (30) days if the manufacturer's or distributor's grounds for termination, cancellation or nonrenewal are due to any of the following good cause factors:

1. A dealer or one (1) of its owners being convicted of, or entering a plea of nolo contendere to, a felony;
2. The abandonment or closing of the business operations of the dealer for ten (10) consecutive business days without contacting the manufacturer prior to the closing unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control;
3. A significant misrepresentation by the dealer materially affecting the business relationship;

4. A suspension or revocation of the dealer's license, or refusal to renew the dealer's license;

5. A material violation of Sections 63-17-201 through 63-17-221 which is not cured within thirty (30) days after the written notice by the manufacturer; or

6. A declaration by the dealer of bankruptcy, insolvency or the occurrence of an assignment for the benefit of creditors or bankruptcy.

(d) The notice provisions of this subsection (1) do not apply if the reason for termination, cancellation or nonrenewal is the dealer's insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

(2) **Dealer termination. —** (a) A dealer may terminate or cancel its manufacturer-dealer agreement with a manufacturer or distributor with or without good cause by giving thirty (30) days' written notice. If the termination or cancellation is for good cause, the notice must state all reasons for the proposed termination or cancellation and must further state that if, within thirty (30) days following receipt of the notice, the manufacturer or distributor provides to the dealer a written notice of intent to cure all claimed deficiencies, the manufacturer or distributor will then have ninety (90) days following receipt of the original notice to rectify the deficiencies. If the deficiencies are rectified within ninety (90) days, the dealer's notice is voided. If the manufacturer or distributor fails to provide the notice of intent to cure the deficiencies in the time period prescribed in the original notice of termination or cancellation, the pending termination or cancellation shall take effect thirty (30) days after the manufacturer's or distributor's receipt of the original notice.

(b) If the dealer terminates, cancels or fails to renew the manufacturer-dealer agreement without good cause, the terms of Section 63-17-207 do not apply. If the dealer terminates, cancels or fails to renew the manufacturer-dealer agreement with good cause, Section 63-17-207 applies. The dealer has the burden of showing good cause. Any of the following items shall be deemed "good cause" for the proposed termination, cancellation or nonrenewal action by a dealer:

(i) A manufacturer being convicted of, or entering a plea of nolo contendere to, a felony.

(ii) The business operations of the manufacturer have been abandoned or closed for ten (10) consecutive business days without contacting the dealer prior to the closing unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the manufacturer has no control.

(iii) A significant misrepresentation by the manufacturer materially affecting the business relationship.

(iv) A material violation of Sections 63-17-201 through 63-17-221 that is not cured within thirty (30) days after written notice by the dealer.

(v) A declaration by the manufacturer of bankruptcy, insolvency, or the occurrence of an assignment for the benefit of creditors or bankruptcy.

HISTORY: Laws, 2014, ch. 532, § 3, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-207. Repurchase of inventory.

(1) If the manufacturer-dealer agreement is terminated, canceled, or not renewed by the manufacturer or distributor without good cause as defined in Section 63-17-205(1), or if the dealer terminates or cancels the manufacturer-dealer agreement for good cause as defined in Section 63-17-205(2), and the manufacturer fails to cure the claimed deficiencies as provided in Section 63-17-205(2), the manufacturer shall, at the election of the dealer and within forty-five (45) days after termination, cancellation or nonrenewal, repurchase:

(a) All new, untitled recreational vehicles that were acquired from the manufacturer or distributor within eighteen (18) months before the effective date of the notice of termination, cancellation, or nonrenewal that have not been used, except for demonstration purposes, and that have not been altered or damaged, at one hundred percent (100%) of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer. If any of the vehicles repurchased pursuant to this paragraph (a) are damaged, but do not trigger a consumer disclosure requirement, the amount due the dealer shall be reduced by the cost to repair the vehicle. Damage before delivery to the dealer that is disclosed at the time of delivery will not disqualify repurchase under this provision.

(b) All undamaged accessories and proprietary parts sold to the dealer for resale within the twelve (12) months before termination, cancellation or nonrenewal, if accompanied by the original invoice, at one hundred five percent (105%) of the original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing, and shipping the parts; and

(c) Any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery at one hundred percent (100%) of the dealer's net cost plus freight, destination, delivery and distribution charges and sales taxes, if any, if the returned items were purchased by the dealer within five (5) years before termination, cancellation or nonrenewal at the manufacturer's or distributor's request, if the dealer can establish that the items no longer can be used in the normal course of the dealer's ongoing business. The manufacturer or distributor shall pay the dealer within thirty (30) days after receipt of the returned items.

(2) The warrantor may not prohibit a dealer from selling or performing warranty service on the remaining in-stock inventory of a particular line-make after a dealer agreement has been terminated or not renewed in accordance with the provisions of Section 63-17-205. If recreational vehicles of a line-make are not returned or required to be returned to the manufacturer, the dealer may continue to sell and perform warranty service on all line-makes that were

subject to the dealer agreement and are currently in stock until those line-makes are no longer in the dealer's inventory and until all warranties are expired on those recreational vehicles retailed by that dealer.

HISTORY: Laws, 2014, ch. 532, § 4, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-209. Transfer of dealership; family succession.

(1) If a dealer desires to make a change in ownership by the sale of the business assets, stock transfer, or otherwise, the dealer shall give the manufacturer or distributor written notice at least fifteen (15) business days before the closing, including all supporting documentation as may be reasonably required by the manufacturer or distributor to determine if an objection to the sale may be made. In the absence of a breach by the selling dealer of its dealer agreement or this chapter, the manufacturer or distributor shall not object to the proposed change in ownership unless the prospective transferee:

(a) Has previously been terminated by the manufacturer for breach of its dealer agreement;

(b) Has been convicted of a felony or any crime of fraud, deceit, or moral turpitude;

(c) Lacks any license required by law;

(d) Does not have an active line of credit sufficient to purchase a manufacturer's product; or

(e) Has undergone in the last ten (10) years bankruptcy, insolvency, a general assignment for the benefit of creditors, or the appointment of a receiver, trustee or conservator to take possession of the transferee's business or property. This paragraph (e) can be waived if the prospective transferee meets all of the requirements of this section and if the prospective transferee fully qualifies under the manufacturer's or lender's financial criteria.

(2) If the manufacturer or distributor objects to a proposed change of ownership, the manufacturer or distributor shall give written notice of its reasons to the dealer within ten (10) business days after receipt of the dealer's notification and complete documentation. The manufacturer or distributor has the burden of proof with regard to its objection. If the manufacturer or distributor does not give timely notice of its objection, the change or sale shall be deemed approved.

(3) It is unlawful for a manufacturer or distributor to fail to provide a dealer an opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity or retirement of the dealer. It is unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated or retired dealer unless the manufacturer or distributor has provided to the dealer written

notice of its objections within ten (10) business days after receipt of the dealer's modification of the dealer's succession plan. In the absence of a breach of the dealer agreement, the manufacturer may object to the succession for the following reasons only:

(a) Conviction of the successor of a felony or any crime of fraud, deceit or moral turpitude;

(b) Bankruptcy or insolvency of the successor during the past ten (10) years. This paragraph (b) can be waived if the prospective successor meets all the requirements of this section and if the prospective successor fully qualifies under the manufacturer's or lender's financial criteria;

(c) Prior termination by the manufacturer of the successor for breach of a dealer agreement;

(d) The lack of an active line of credit for the successor sufficient to purchase the manufacturer's product; or

(e) The lack of any license for the successor required by law.

(4) The manufacturer or distributor has the burden of proof regarding its objection. However, a family member may not succeed to a dealership if the succession involves, without the manufacturer's or distributor's consent, a relocation of the business or an alteration of the terms and conditions of the manufacturer-dealer agreement.

HISTORY: Laws, 2014, ch. 532, § 5, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-211. Warranty obligations.

(1) Each warrantor shall:

(a) Specify in writing to each of its dealer obligations, if any, for preparation, delivery and warranty service on its products;

(b) Compensate the dealer for warranty service required of the dealer by the warrantor; and

(c) Provide the dealer the schedule of compensation to be paid and the time allowances for the performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as warranty labor.

(2) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the actual wage rates being paid by the dealer, and the actual retail labor rate being charged by the dealers in the community in which the dealer is doing business. The compensation of a dealer for warranty labor may not be less than the lowest retail labor rates actually charged by the dealer for like nonwarranty labor as long as such rates are reasonable.

(3) The warrantor shall reimburse the dealer for warranty parts at actual wholesale cost plus a minimum thirty percent (30%) handling charge and the cost, if any, of freight to return warranty parts to the warrantor.

(4) Warranty audits of dealer records may be conducted by the warrantor on a reasonable basis, not to exceed a twelve-month look-back period from the current calendar date and dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud or misrepresentation.

(5) The dealer shall submit warranty claims within thirty (30) days after completing work.

(6) The dealer shall immediately notify the warrantor in writing if the dealer is unable to perform any warranty repairs within ten (10) days of receipt of written complaints from a consumer.

(7) The warrantor shall disapprove warranty claims in writing within thirty (30) days after the date of submission by the dealer in the manner and form prescribed by the warrantor. All claims shall be paid as authorized. Claims submitted according to warrantor's guidelines not specifically disapproved in writing within thirty (30) days shall be construed to be approved and must be paid within thirty (30) days of submission. Claims related to any type of service contract, mechanical or other insurance, or extended warranty sold for separate consideration by a dealer or other person not controlled by a manufacturer must be paid to the dealer as authorized immediately upon submission of completion by the dealer.

(8) It is a violation of Sections 63-17-201 through 63-17-221 for any warrantor to:

(a) Fail to perform any of its warranty obligations with respect to its warranted products;

(b) Fail to include, in written notices of factory campaigns to recreational vehicle owners and dealers, the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The warrantor may ship parts to the dealer to effect the campaign work, and, if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the warrantor for credit after completion of the campaign;

(c) Fail to compensate any of its dealers for authorized repairs effected by the dealer of merchandise damaged in manufacture or transit to the dealer, if the carrier is designated by the warrantor, factory branch, distributor or distributor branch;

(d) Fail to compensate any of its dealers in accordance with the schedule of compensation provided to the dealer pursuant to this section if performed in a timely and competent manner;

(e) Intentionally misrepresent in any way to purchasers of recreational vehicles that warranties with respect to the manufacture, performance or design of the vehicle are made by the dealer as warrantor or co-warrantor; or

(f) Require the dealer to make warranties to customers in any manner related to the manufacture of the recreational vehicle.

(9) It is a violation of Sections 63-17-201 through 63-17-221 for any dealer to:

(a) Fail to perform pre-delivery inspection functions, as specified by the warrantor, in a competent and timely manner;

(b) Fail to perform warranty service work authorized by the warrantor in a reasonably competent and timely manner on any transient customer's vehicle of the same line-make;

(c) Fail to accurately document the time spent completing each repair, the total number of repair attempts conducted on a single unit, and the number of repair attempts for the same repair conducted on a single vehicle;

(d) Fail to notify the warrantor within ten (10) days of a second repair attempt which impairs the use, value or safety of the vehicle;

(e) Fail to maintain written records, including a consumer's signature, regarding the amount of time a unit is stored for the consumer's convenience during a repair; or

(f) Make fraudulent warranty claims or misrepresent the terms of any warranty.

HISTORY: Laws, 2014, ch. 532, § 6, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-213. Indemnification.

Notwithstanding the terms of any manufacturer-dealer agreement, it is a violation of Sections 63-17-201 through 63-17-221 for:

(a) A warrantor to fail to indemnify and hold harmless its dealer against any losses or damages to the extent the losses or damages are caused by the negligence or willful misconduct of the warrantor. The dealer shall provide to the warrantor a copy of any pending law suit or similar proceeding in which allegations are made that come within this subsection within ten (10) days after receiving the suit.

(b) A dealer to fail to indemnify and hold harmless its warrantor against any losses or damages to the extent the losses or damages are caused by the negligence or willful misconduct of the dealer. The warrantor shall provide to the dealer a copy of any pending law suit or similar proceeding in which allegations are made that come within this subsection within ten (10) days after receiving the suit.

HISTORY: Laws, 2014, ch. 532, § 7, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-215. Inspection and rejection by dealer.

(1) Whenever a new recreational vehicle is damaged before transit to the dealer or is damaged in transit to the dealer when the carrier or means of transportation has been selected by the manufacturer or distributor, the dealer shall notify the manufacturer or distributor of the damage within the timeframe specified in the manufacturer-dealer agreement and:

(a) Request from the manufacturer or distributor authorization to replace the components, parts and accessories damaged or otherwise correct the damage; or

(b) Reject the vehicle within the timeframe set forth in subsection (4) of this section.

(2) If the manufacturer or distributor refuses or fails to authorize repair of such damage within ten (10) days after receipt of notification, or if the dealer rejects the recreational vehicle because of damage, ownership of the new recreational vehicle shall revert to the manufacturer or distributor.

(3) The dealer shall exercise due care in custody of the damaged recreational vehicle, but the dealer shall have no other obligations, financial or otherwise, with respect to that recreational vehicle.

(4) The timeframe for inspection and rejection by the dealer must be part of the manufacturer-dealer agreement and may not be less than two (2) business days after the physical delivery of the recreational vehicle.

(5) Any recreational vehicle that has, at the time of delivery to the dealer, an unreasonable amount of miles on its odometer, as determined by the dealer, may be subject to rejection by the dealer and reversion of the vehicle to the manufacturer or distributor. In no instance shall a dealer deem an amount less than the distance between the dealer and the manufacturer's factory or a distributor's point of distribution, plus one hundred (100) miles, as unreasonable.

HISTORY: Laws, 2014, ch. 532, § 8, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-217. Coercion of dealer prohibited.

(1) A manufacturer or distributor may not coerce or attempt to coerce a dealer to:

(a) Purchase a product that the dealer did not order;

(b) Enter into an agreement with the manufacturer or distributor; or

(c) Enter into an agreement that requires the dealer to submit its disputes to binding arbitration or otherwise waive rights or responsibilities provided under Sections 63-17-201 through 63-17-221.

(2) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel or not renew a manufacturer-dealer agree-

ment without good cause or threatening to withhold product lines the dealer is entitled to purchase pursuant to the manufacturer-dealer agreement or delay product delivery as an inducement to amending the manufacturer-dealer agreement.

HISTORY: Laws, 2014, ch. 532, § 9, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-219. Mediation.

(1) A dealer, manufacturer or warrantor injured by another party's violation of Sections 63-17-201 through 63-17-221 may bring a civil action in circuit court to recover actual damages. The court shall award attorney's fees and costs to the prevailing party in such an action. Venue for any civil action authorized by this section shall exclusively be in the county in which the dealer's business is located. In an action involving more than one (1) dealer, venue may be in any county in which any dealer that is party to the action is located.

(2) Prior to bringing suit under this section, the party bringing suit for an alleged violation shall serve a written demand for mediation upon the offending party.

(a) The demand for mediation shall be served upon the other party via certified mail at the address stated within the manufacturer-dealer agreement between the parties.

(b) The demand for mediation shall contain a brief statement of the dispute and the relief sought by the party filing the demand.

(c) Within twenty (20) days after the date a demand for mediation is served, the parties shall mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to resolve the dispute. The meeting place shall be in this state in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown either party or upon stipulation of both parties.

(d) The service of a demand for mediation under this section shall toll the time for the filing of any complaint, petition, protest or other action under Sections 63-17-201 through 63-17-221 until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers appropriate.

(e) The parties to the mediation shall bear their own costs for attorney's fees and divide equally the cost of the mediator.

(3) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a manufacturer, or warrantor, or a dealer is authorized to make application to a circuit court for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a dealer without being properly licensed, from violating or continuing to violate any of the provisions of Sections 63-17-201 through 63-17-221, or from failing or refusing to comply with the requirements of Sections 63-17-201 through 63-17-221. Injunction under this provision shall be issued without bond. A single act in violation of the provisions of Sections 63-17-201 through 63-17-221 shall be sufficient to authorize the issuance of an injunction.

HISTORY: Laws, 2014, ch. 532, § 10, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

§ 63-17-221. Selling at shows.

(1) A recreational vehicle dealer may not sell or display for sale a new recreational vehicle in this state unless the dealer is licensed by the Mississippi Motor Vehicle Commission to sell recreational vehicles in the State of Mississippi. The recreational vehicle dealer is also required to have a dealer agreement with the manufacturer of the recreational vehicle that meets the requirements of Sections 63-17-201 through 63-17-221 and is signed by both parties.

(2) Out-of-state recreational vehicle dealers may participate in sanctioned or nonsanctioned recreational vehicle shows under the following circumstances:

(a) An out-of-state recreational vehicle dealer must have the unanimous approval, in writing, of all recreational vehicle dealers that have the area of responsibility where the sanctioned or nonsanctioned show event is held;

(b) Out-of-state recreational vehicle dealers must obtain permission, in writing, from the manufacturer for all models to be displayed where the sanctioned or nonsanctioned show event is being held; and

(c) Out-of-state recreational vehicle dealers must obtain a permit from the Mississippi Motor Vehicle Commission to participate in a sanctioned recreational vehicle show.

(3) A recreational vehicle dealer may not conduct sales activity or display for sale recreational vehicles outside of the dealer's designated area of sales responsibility.

(4) A recreational vehicle dealer may sell off-premises within the area of sales responsibility of the dealer under the following circumstances:

(a) At sanctioned recreational vehicle shows where the sales event is held off premises. A sanctioned recreational vehicle show may be held only under the following conditions:

(i) The sponsoring entity of the sales event shall obtain a permit from the Mississippi Motor Vehicle Commission, which shall be for a period not to exceed ten (10) consecutive days;

(ii) New recreational vehicle dealers whose manufacturer-approved area of responsibility includes the event location shall be eligible to participate in the sanctioned recreational vehicle show; and

(iii) The sanctioned recreational vehicle show shall be conducted within municipal, county or state-owned or controlled facilities or within the grounds of any county, district or state fair; and

(b) At nonsanctioned recreational vehicle shows where one or more recreational vehicle dealers may sell recreational vehicles off premises under the following conditions:

(i) The location of the nonsanctioned recreational vehicle show shall be within the manufacturer-approved area of responsibility;

(ii) The nonsanctioned recreational vehicle show shall occur not more than five (5) consecutive days per event, excluding county, district or state fairs;

(iii) Each recreational vehicle dealer may participate in not more than eight (8) nonsanctioned recreational vehicle shows per calendar year; and

(iv) Nonsanctioned recreational vehicle shows shall be held on privately owned property not closer than two and one-half (2.5) miles to any other nonparticipating recreational vehicle dealer; provided, however, a nonsanctioned recreational vehicle show may be held on county or municipally owned property with no mileage barrier restriction.

(5) A recreational vehicle dealer may display a recreational vehicle within the designated area of responsibility of the recreational vehicle dealer for promotional purposes. At an off-premises display event, no sales activities shall be conducted including, but not limited to, negotiations, financing and accepting credit applications. Sales or finance personnel shall not be permitted to participate at an off-premises display event.

HISTORY: Laws, 2014, ch. 532, § 11, eff from and after Oct. 1, 2014.

Editor's Notes — Laws of 2014, ch. 532, § 16, provides:
"SECTION 16. This act shall take effect and be in force from and after October 1, 2014, and shall apply to manufacturer-dealer agreements entered into on or after that date."

CHAPTER 21.

MOTOR VEHICLE TITLES

Article 1. General Provisions. 63-21-1

Article 2. Procedures for Forfeiture of Vehicles Seized in Motor Vehicle Scrapping or Dismantling Violations. 63-21-101

ARTICLE 1.

GENERAL PROVISIONS.

Sec.
63-21-11. Exceptions to requirement of certificate of title.
63-21-13. Designated agents of Department of Revenue generally.
63-21-15. Application for certificate of title; expedited title processing.
63-21-16. Electronic transmittal of information by banks and other lending institutions; duties of institutions with respect to applications for certificates of title; entry of applications on statewide title registration system; addition of second lienholder to certificate of title; applications for certificates of title after assignment of liens; issuance of new certificate of title by Department of Revenue; connection of institutions to title registration system; penalties for noncompliance with statute or regulations by institutions; conditions for issuance of certificate of title to manufactured or mobile home for which title has been retired to real property.
63-21-17. Issuance of certificate of title; Department of Revenue to permanently maintain records of certificates of title, affidavits of affixation, manufacturers' certificates of origin, surrendered certificates of title, and affidavits of severance.
63-21-25. Refusal to issue certificate of title.
63-21-30. Permanent retirement of title to manufactured home or mobile home; procedure; affidavit of severance; affidavit of destruction.
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63-21-39. Procedure where vehicle scrapped, dismantled or destroyed; procedure where title for vehicle being transferred to used motor vehicle parts dealer or scrap metal processor is unavailable; obtaining title on vehicle with salvage certificate of title; Salvage Certificate of Title Fund; regulations; penalties for violation of section.
63-21-43. Perfection of security interests.
63-21-57. Filing and recording of notices of security interests; examination of record prior to issuance or reissuance of certificate of title.
63-21-64. Fees paid to Department of Revenue for issuing and processing necessary documents.
63-21-70. Special license plate and windshield decals indicating impaired or limited ability to communicate with law enforcement [Effective January 1, 2021].

§ 63-21-5. Definitions.

JUDICIAL DECISIONS

ANALYSIS

1. In general.
2. Proceeds

1. In general.

Heirs' argument that a decedent's girlfriend failed to establish the elements of an inter vivos gift by clear and convincing evidence failed because the burden of proof was on the heirs to disprove her rights to a truck; the girlfriend had full ownership rights of the truck from the time of the title application and when it was issued from the State Tax Commission because the truck was titled to her and the decedent. Amos v. Brown (In re Estate of Brown), 293 So. 3d 851, 2019 Miss. App. LEXIS 585 (Miss. Ct. App. 2019).

Creditor, a vehicle dealer, exercised control over debtor's vehicle in violation of the automatic stay by refusing to furnish him with an application for a new certificate of title as required by Mississippi Motor Vehicle and Manufactured Housing Title Law, even though debtor's counsel made him aware of the bankruptcy filing and automatic stay. Creditor's passive act of holding on to the existing certificate of title prevented debtor from lawfully driving the vehicle, which had the same effect as if creditor had repossessed the vehicle pre-petition and refused to return it post-petition. Parker v. Smith (In re Parker), 2014 Bankr. LEXIS 58 (Bankr. S.D. Miss. Jan. 6, 2014).

2. Proceeds

Assuming the creditors had valid, perfected security interests in the trucks, lease payments for the trucks were proceeds of the collateral under Nevada law as although Nevada deferred to Mississippi law with respect to the perfection of a security interest in the trucks, the Mississippi Motor Vehicle and Manufactured Housing Title Law did not provide a method for perfection of the proceeds of a vehicle; the payments were proceeds of the trucks and any perfection of security interests in the trucks continued automatically in the payments, but a fact issue remained as to whether the security interest in the cash proceeds were identifiable and continued beyond the 20th day after attachment. Nat'l Truck Funding LLC v. Yolo Capital Inc. (In re Nat'l Truck Funding LLC), — B.R. —, 2018 Bankr. LEXIS 182 (Bankr. S.D. Miss. Jan. 24, 2018).

§ 63-21-9. Requirement of certificate of title.

JUDICIAL DECISIONS

1. In general.

Creditor, a vehicle dealer, exercised control over debtor's vehicle in violation of the automatic stay by refusing to furnish him with an application for a new certificate of title as required by Mississippi Motor Vehicle and Manufactured Housing Title Law, even though debtor's counsel made him aware of the bankruptcy filing and automatic stay. Creditor's passive act of holding on to the existing certificate of title prevented debtor from lawfully driving the vehicle, which had the same effect as if creditor had repossessed the vehicle pre-petition and refused to return it post-petition. Parker v. Smith (In re Parker), 2014 Bankr. LEXIS 58 (Bankr. S.D. Miss. Jan. 6, 2014).

§ 63-21-11. Exceptions to requirement of certificate of title.

(1) No certificate of title need be obtained for:

(a) A vehicle, manufactured home or mobile home owned by the United States or any agency thereof;

(b) A vehicle, manufactured home or mobile home owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing;

(c) A vehicle, manufactured home or mobile home owned by a nonresident of this state and not required by law to be registered in this state;

(d) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;

(e) A vehicle moved solely by animal power;

(f) An implement of husbandry;

(g) Special mobile equipment;

(h) A pole trailer;

(i) Utility trailers of less than five thousand (5,000) pounds gross vehicle weight;

(j) A manufactured home with respect to which the requirements of subsections (1) through (5) of Section 63-21-30, as applicable, have been satisfied unless with respect to the same manufactured home or mobile home there has been recorded an affidavit of severance pursuant to subsection (6) of Section 63-21-30.

(2) Nothing in this section shall prohibit the issuance of a certificate of title to the nonresident owner of an all-terrain vehicle that is purchased in this state.

HISTORY: Codes, 1942, § 8125-25; Laws, 1968, ch. 531, § 5; Laws, 1987, ch. 338, § 1; Laws, 1999, ch. 556, § 5; Laws, 2005, ch. 335, § 3, eff from and after July 1, 2005; Laws, 2018, ch. 401, § 3, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, added (1)(j), and made a related change.

§ 63-21-13. Designated agents of Department of Revenue generally.

(1) The tax collector of each of the several counties in this state shall by virtue of his office be a designated agent of the Department of Revenue. Such tax collectors may perform their duties under this chapter either personally or through any of their deputies.

(2) Every licensed dealer as defined in this chapter including wholesale dealers, shall be a designated agent of the Department of Revenue. Such dealers may perform their duties under this chapter either personally or through any of their officers or employees. Such dealers or persons shall enter into a bond with a surety company authorized to do business in this state as surety thereon, payable to the State of Mississippi in a sum to be determined by the department, but in no case to be less than Fifteen Thousand Dollars ($15,000.00), conditioned for the faithful performance of their duties under this chapter.

(3) The Department of Revenue may appoint persons other than licensed dealers as its designated agents, provided that such appointees shall enter into a bond with a surety company authorized to do business in this state as surety thereon, payable to the State of Mississippi in a sum to be determined by the commission, but in no case to be less than Five Thousand Dollars ($5,000.00), conditioned for the faithful performance of their duties under this chapter.

HISTORY: Codes, 1942, § 8125-26; Laws, 1968, ch. 531, § 6; Laws, 1970, ch. 483,

§ 2; Laws, 1993, ch. 539, § 1; Laws, 2015, ch. 400, § 1, eff from and after July 1, 2015.

Amendment Notes — The 2015 amendment substituted "Department of Revenue" for "State Tax Commission" throughout; in (2), inserted "including wholesale dealers" and substituted "department" for "commission" in the last sentence.

§ 63-21-15. Application for certificate of title; expedited title processing.

[Effective until January 1, 2021, this section will read:]

(1) The application for the certificate of title of a vehicle, manufactured home or mobile home in this state shall be made by the owner to a designated agent, on the form the Department of Revenue prescribes, and shall contain or be accompanied by the following, if applicable:

(a) The name, driver's license number, if the owner has been issued a driver's license, current residence and mailing address of the owner;

(b)(i) If a vehicle, a description of the vehicle, including the following data: year, make, model, vehicle identification number, type of body, the number of cylinders, odometer reading at the time of application, and whether new or used; and

(ii) If a manufactured home or mobile home, a description of the manufactured home or mobile home, including the following data: year, make, model number, serial number and whether new or used;

(c) The date of purchase by applicant, the name and address of the person from whom the vehicle, manufactured home or mobile home was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(d) In connection with the transfer of ownership of a manufactured home or mobile home sold by a sheriff's bill of sale, a copy of the sheriff's bill of sale;

(e)(i) An odometer disclosure statement made by the transferor of a motor vehicle. The statement shall read:

"Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fine and/or imprisonment.

I state that the odometer now reads ____ (no tenths) milesand to the best of my knowledge that it reflects the actual mileage of the vehicle described herein, unless one (1) of the following statements is checked:

____________ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

____________ (2) I hereby certify that the odometer reading is not the actual mileage. WARNING-ODOMETER DISCREPANCY!"

(ii) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title, which form shall be prescribed and furnished by the Department of Revenue. This written disclosure must be signed by the transferor and transferee, including the printed name of both parties.

Notwithstanding the requirements above, the following exemptions as to odometer disclosure shall be in effect:

1. A vehicle having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds.
2. A vehicle that is not self-propelled.
3. A vehicle that is ten (10) years old or older.
4. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.
5. A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(iii) Any person who knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of up to One Thousand Dollars ($1,000.00) or imprisonment of up to one (1) year, or both, at the discretion of the court. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law; and

(f) For previously used manufactured homes and mobile homes that previously have not been titled in this state or any other state, a disclosure statement shall be made by the owner of the manufactured home or mobile home applying for the certificate of title. That statement shall read:

"I state that the previously used manufactured home or mobile home owned by me for which I am applying for a certificate of title, to the best of my knowledge:

____________ (1) Has never been declared a total loss due to flood damage, fire damage, wind damage or other damage; or

____________ (2) Has previously been declared a total loss due to:

____________ (a) Collision;

____________ (b) Flood;

____________ (c) Fire;

____________ (d) Wind;

____________ (e) Other (please describe): ______________________________

____."

(2) The application shall be accompanied by such evidence as the Department of Revenue reasonably requires to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle, manufactured home or mobile home and whether the applicant is liable for a use tax as provided by Sections 27-67-1 through 27-67-33.

(3) If the application is for a vehicle, manufactured home or mobile home

purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and it shall be signed by the dealer as well as the owner. The designated agent shall promptly mail or deliver the application to the Department of Revenue.

(4) If the application is for a new vehicle, manufactured home or mobile home, it shall contain the certified manufacturer's statement of origin showing proper assignments to the applicant and a copy of each security interest document.

(5) Each application shall contain or be accompanied by the certificate of a designated agent that the vehicle, manufactured home or mobile home has been physically inspected by him and that the vehicle identification number and descriptive data shown on the application, pursuant to the requirements of subsection (1)(b) of this section, are correct, and also that he has identified the person signing the application and witnessed the signature. If the application is to receive a branded title for a vehicle for which a salvage certificate of title has been issued, the application shall be accompanied by a sworn affidavit that the vehicle complies with the requirements of this section, Section 63-21-39 and the regulations promulgated by the Department of Revenue under Section 63-21-39.

(6) If the application is for a first certificate of title on a vehicle, manufactured home or mobile home other than a new vehicle, manufactured home or mobile home, then the application shall conform with the requirements of this section except that in lieu of the manufacturer's statement of origin, the application shall be accompanied by a copy of the bill of sale of said motor vehicle, manufactured home or mobile home whereby the applicant claims title or in lieu thereof, in the case of a motor vehicle, certified copies of the last two (2) years' tag and tax receipts or in lieu thereof, in any case, such other information the Department of Revenue may reasonably require to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine ownership of the vehicle, manufactured home or mobile home and the existence or nonexistence of security interest in it. If the application is for a vehicle, manufactured home or mobile home last previously registered in another state or country, the application shall also be accompanied by the certificate of title issued by the other state or country, if any, properly assigned.

(7) If the application is for a vehicle the owner does not intend to drive, the owner need not purchase a license tag in order to receive a certificate of title, so long as the application contains an affidavit attesting to the owner's intent that the vehicle not be operated on the highways of this state until and unless the owner applies for a license tag.

(8) Every designated agent within this state shall, no later than the next business day after they are received by him, forward to the Department of Revenue by mail, postage prepaid, the originals of all applications received by him, together with such evidence of title as may have been delivered to him by the applicants.

(9) An application for certificate of title and information to be placed on an application for certificate of title may be transferred electronically as provided in Section 63-21-16.

(10) The Department of Revenue shall issue a certificate of title or any other document applied for under this chapter to the designated agent, owner or lienholder of the motor vehicle or of the manufactured home or mobile home, as appropriate, not more than thirty (30) days after the application and required fee prescribed under Section 63-21-63 or Section 63-21-64 are received unless the applicant requests expedited processing under subsection (11) of this section.

(11)(a) The Department of Revenue shall establish an expedited processing procedure for the receipt of applications and the issuance of certificates of title and any other documents issued under this chapter, except a replacement certificate of title as provided under Section 63-21-27(2), for motor vehicles and for manufactured homes or mobile homes. Any designated agent, lienholder or owner requesting the issuance of any such document, at his or her option, shall receive such expedited processing upon payment of a fee in the amount of Thirty Dollars ($30.00). Such fee shall be in addition to the fees applicable to the issuance of any such documents under Section 63-21-63 and Section 63-21-64.

(b) When expedited title processing is requested, the applicable fees are paid and all documents and information necessary for the Department of Revenue to issue the certificate of title or other documents applied for are received by the department, then the department shall complete processing of the application and issue the title or document applied for within seventy-two (72) hours of the time of receipt, excluding weekends and holidays.

[Effective from and after January 1, 2021, this section will read:]

(1) The application for the certificate of title of a vehicle, manufactured home or mobile home in this state shall be made by the owner to a designated agent, on the form the Department of Revenue prescribes, and shall contain or be accompanied by the following, if applicable:

(a) The name, driver's license number, if the owner has been issued a driver's license, current residence and mailing address of the owner;

(b)(i) If a vehicle, a description of the vehicle, including the following data: year, make, model, vehicle identification number, type of body, the number of cylinders, odometer reading at the time of application, and whether new or used; and

(ii) If a manufactured home or mobile home, a description of the manufactured home or mobile home, including the following data: year, make, model number, serial number and whether new or used;

(c) The date of purchase by applicant, the name and address of the person from whom the vehicle, manufactured home or mobile home was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(d) In connection with the transfer of ownership of a manufactured home or mobile home sold by a sheriff's bill of sale, a copy of the sheriff's bill of sale;

(e)(i) An odometer disclosure statement made by the transferor of a motor vehicle. The statement shall read:

"Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fine and/or imprisonment.

I state that the odometer now reads ____ (no tenths) milesand to the best of my knowledge that it reflects the actual mileage of the vehicle described herein, unless one (1) of the following statements is checked:

____________ (1) I hereby certify that to the best of my knowledge the odometer reading reflects the amount of mileage in excess of its mechanical limits.

____________ (2) I hereby certify that the odometer reading is not the actual mileage. WARNING-ODOMETER DISCREPANCY!"

(ii) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or on the document being used to reassign the title, which form shall be prescribed and furnished by the Department of Revenue. This written disclosure must be signed by the transferor and transferee, including the printed name of both parties.

Notwithstanding the requirements above, the following exemptions as to odometer disclosure shall be in effect:

1. A vehicle having a gross vehicle weight rating of more than sixteen thousand (16,000) pounds.
2. A vehicle that is not self-propelled.
3. A vehicle that is twenty (20) years old or older.
4. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.
5. A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(iii) Any person who knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of up to One Thousand Dollars ($1,000.00) or imprisonment of up to one (1) year, or both, at the discretion of the court. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law; and

(f) For previously used manufactured homes and mobile homes that previously have not been titled in this state or any other state, a disclosure statement shall be made by the owner of the manufactured home or mobile home applying for the certificate of title. That statement shall read:

"I state that the previously used manufactured home or mobile home owned by me for which I am applying for a certificate of title, to the best of my knowledge:

____________ (1) Has never been declared a total loss due to flood damage, fire damage, wind damage or other damage; or

____________ (2) Has previously been declared a total loss due to:
____________ (a) Collision;
____________ (b) Flood;
____________ (c) Fire;
____________ (d) Wind;
____________ (e) Other (please describe): ____________________________
____."

(2) The application shall be accompanied by such evidence as the Department of Revenue reasonably requires to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the vehicle, manufactured home or mobile home and whether the applicant is liable for a use tax as provided by Sections 27-67-1 through 27-67-33.

(3) If the application is for a vehicle, manufactured home or mobile home purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and it shall be signed by the dealer as well as the owner. The designated agent shall promptly mail or deliver the application to the Department of Revenue.

(4) If the application is for a new vehicle, manufactured home or mobile home, it shall contain the certified manufacturer's statement of origin showing proper assignments to the applicant and a copy of each security interest document.

(5) Each application shall contain or be accompanied by the certificate of a designated agent that the vehicle, manufactured home or mobile home has been physically inspected by him and that the vehicle identification number and descriptive data shown on the application, pursuant to the requirements of subsection (1)(b) of this section, are correct, and also that he has identified the person signing the application and witnessed the signature. If the application is to receive a branded title for a vehicle for which a salvage certificate of title has been issued, the application shall be accompanied by a sworn affidavit that the vehicle complies with the requirements of this section, Section 63-21-39 and the regulations promulgated by the Department of Revenue under Section 63-21-39.

(6) If the application is for a first certificate of title on a vehicle, manufactured home or mobile home other than a new vehicle, manufactured home or mobile home, then the application shall conform with the requirements of this section except that in lieu of the manufacturer's statement of origin, the application shall be accompanied by a copy of the bill of sale of said motor vehicle, manufactured home or mobile home whereby the applicant

claims title or in lieu thereof, in the case of a motor vehicle, certified copies of the last two (2) years' tag and tax receipts or in lieu thereof, in any case, such other information the Department of Revenue may reasonably require to identify the vehicle, manufactured home or mobile home and to enable the Department of Revenue to determine ownership of the vehicle, manufactured home or mobile home and the existence or nonexistence of security interest in it. If the application is for a vehicle, manufactured home or mobile home last previously registered in another state or country, the application shall also be accompanied by the certificate of title issued by the other state or country, if any, properly assigned.

(7) If the application is for a vehicle the owner does not intend to drive, the owner need not purchase a license tag in order to receive a certificate of title, so long as the application contains an affidavit attesting to the owner's intent that the vehicle not be operated on the highways of this state until and unless the owner applies for a license tag.

(8) Every designated agent within this state shall, no later than the next business day after they are received by him, forward to the Department of Revenue by mail, postage prepaid, the originals of all applications received by him, together with such evidence of title as may have been delivered to him by the applicants.

(9) An application for certificate of title and information to be placed on an application for certificate of title may be transferred electronically as provided in Section 63-21-16.

(10) The Department of Revenue shall issue a certificate of title or any other document applied for under this chapter to the designated agent, owner or lienholder of the motor vehicle or of the manufactured home or mobile home, as appropriate, not more than thirty (30) days after the application and required fee prescribed under Section 63-21-63 or Section 63-21-64 are received unless the applicant requests expedited processing under subsection (11) of this section.

(11)(a) The Department of Revenue shall establish an expedited processing procedure for the receipt of applications and the issuance of certificates of title and any other documents issued under this chapter, except a replacement certificate of title as provided under Section 63-21-27(2), for motor vehicles and for manufactured homes or mobile homes. Any designated agent, lienholder or owner requesting the issuance of any such document, at his or her option, shall receive such expedited processing upon payment of a fee in the amount of Thirty Dollars ($30.00). Such fee shall be in addition to the fees applicable to the issuance of any such documents under Section 63-21-63 and Section 63-21-64.

(b) When expedited title processing is requested, the applicable fees are paid and all documents and information necessary for the Department of Revenue to issue the certificate of title or other documents applied for are received by the department, then the department shall complete processing of the application and issue the title or document applied for within seventy-two (72) hours of the time of receipt, excluding weekends and holidays.

HISTORY: Codes, 1942, § 8125-27; Laws, 1968, ch. 531, § 7; Laws, 1986, ch. 328, § 2; Laws, 1989, ch. 369, § 2; Laws, 1991, ch. 575, § 1; Laws, 1996, ch. 539, § 3; Laws, 1999, ch. 556, § 6; Laws, 2004, ch. 557, § 1; Laws, 2006, ch. 466, § 2; Laws, 2006, ch. 563, § 8, eff from and after July 1, 2006; Laws, 2018, ch. 358, § 1, eff from and after July 1, 2018; Laws, 2020, ch. 324, § 1, eff from and after January 1, 2021; Laws, 2020, ch. 335, § 1, eff from and after passage (approved June 23, 2020).

Joint Legislative Committee Note — Section 1 of Chapter 324, Laws of 2020, effective from and after January 1, 2021 (approved June 22, 2020), amended this section. Section 1 of Chapter 335, Laws of 2020, effective from and after passage (approved June 23, 2020), also amended this section As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section amended within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the October 19, 2020, meeting of the Committee.

Amendment Notes — The 2018 amendment substituted “Department of Revenue” for references to “State Tax Commission” and “Tax Commission,” and “department” for “commission” everywhere the terms appear.

The first 2020 amendment (ch. 324), effective January 1, 2021, substituted “twenty (20) years old” for “ten (10) years old” in (1)(e)(ii)3.

The second 2020 amendment (ch. 335), effective June 23, 2020, added (7) and redesignated former (7) through (10) as (8) through (11); and in (10), substituted “subsection (11)” for “subsection (10).”

§ 63-21-16. Electronic transmittal of information by banks and other lending institutions; duties of institutions with respect to applications for certificates of title; entry of applications on statewide title registration system; addition of second lienholder to certificate of title; applications for certificates of title after assignment of liens; issuance of new certificate of title by Department of Revenue; connection of institutions to title registration system; penalties for noncompliance with statute or regulations by institutions; conditions for issuance of certificate of title to manufactured or mobile home for which title has been retired to real property.

(1) All designated agents appointed by the Department of Revenue under Section 63-21-13, Mississippi Code of 1972, may electronically transmit to the Department of Revenue information entered by them on applications for a certificate of title given in connection with the sale or transfer of a motor vehicle, manufactured home or mobile home or a loan for which the owner’s motor vehicle, manufactured home or mobile home is pledged to that institution as collateral for the loan. The format and the data required to be transmitted shall be established by the Department of Revenue. Transmission

of data shall meet minimum criteria and edits established by the Department of Revenue equal to any edit presently existing in the statewide title registration system, or as may be established, to which the county tax collectors shall also conform. All data transmitted must successfully pass edits established by the Department of Revenue, including lienholder name, mailing address and lienholder account number assigned to a lienholder by the Department of Revenue to identify the lienholder, for the purpose of causing the data to appear in the certificate of title for which the application is made.

(2) It shall be the responsibility of the designated agent to verify all data before it is electronically transmitted. It shall also be the responsibility of the designated agent to ensure that the required certification of designated agent and the certification of statement of facts that are contained on the application for certificate of title appear above the signatures of both the owner and the authorized representative of the designated agent. Data which cannot be transmitted because of error shall be corrected by the designated agent when the statewide title registration system indicates that the data is erroneous or is not valid for the purposes of titling the motor vehicle, manufactured home or mobile home or for transfer of the data.

(3) When an institution has agreed to loan money for the purchase of a motor vehicle, manufactured home or mobile home, the institution shall complete an application for certificate of title or require the borrower to provide to the institution the copy of the application for certificate of title contained in the application packet which is designated "Lienholder's Copy" according to provisions of the Motor Vehicle and Manufactured Housing Title Law, which the owner will receive from the county tax collector or any designated agent upon completion of the application for title and registration process.

(4) An application for certificate of title originating from a designated agent shall be entered on the statewide title registration system by the originating lending institution when the transaction is for the purpose of perfecting the institution's interest in a vehicle, manufactured home or mobile home currently owned or purchased by the applicant, in connection with application for certificate of title or the purchase of a license tag or both.

(5) When an institution in this state adds a second lien on a certificate of title in possession of a first lienholder institution in this state, the second lienholder institution seeking to be shown on the certificate of title shall:

(a) Prepare the application for certificate of title in accordance with the requirements of Sections 63-21-15 and 63-21-45(1)(c);

(b) Obtain all required signatures; and

(c) Forward the completed application for certificate of title to the first lienholder together with any necessary remittance advice, a check for the title fee payable to the Department of Revenue and a cover letter to the first lienholder requesting that the first lienholder attach the certificate of title to the required documents sent by the second lienholder and then forward the application, certificate of title and required documents to the Department of Revenue.

(6) Upon receipt of the application for certificate of title from the second lienholder institution to record the second lien, the first lienholder institution

shall compare the data contained in the application for certificate of title to the information contained in the original certificate of title. If the first lienholder institution is satisfied as to the ownership, accuracy and order of priority of liens as shown in the application, it shall enter the data contained on the application for certificate of title prepared by the second lienholder on the statewide title registration system, including the designated agent number of the second lienholder. After entering the data from the application for certificate of title, the first lienholder institution shall immediately forward the application for certificate of title with the certificate of title attached to the application, the remittance advice and the second lienholder's check for the title fee to the Department of Revenue within three (3) working days.

(7) In an assignment of lien pursuant to Section 63-21-47, the assignee shall receive the notice of assignment along with the current title attached and with the assignors interest open. The assignee lienholder shall prepare an application for certificate of title according to the notice of assignment, showing the assignee institution as the lienholder, and then shall electronically transmit the data to the Department of Revenue. The completed application shall be forwarded to the Department of Revenue within three (3) working days.

(8) The Department of Revenue, upon receipt of applications for certificate of title, shall verify the data by accessing it on the statewide title registration system by the title application control number appearing on the application for title. After receiving verification that is satisfactory to the Department of Revenue that the data necessary for the issuance of a new certificate of title exists, the Department of Revenue shall issue a new certificate of title that records the interests of all the parties named in the application for certificate of title.

(9) Designated agents shall be connected to the statewide title registration system for the purpose of electronic transfer of applications for certificate of title data in the order of priority established by the Department of Revenue.

(10) If a participating designated agent fails to comply with the provisions of this section or the rules adopted by the Department of Revenue to implement this section, the Department of Revenue may impose a penalty of Twenty-five Dollars ($25.00) for each instance of noncompliance. Any penalty imposed under this section not paid within thirty (30) days after a notice is given shall be subject to collection from the bond of the designated agent that is required to be provided under the provisions of Section 63-21-13(3). The penalty provided shall also be assessable, due and collectible from any licensed motor vehicle dealer or manufactured home or mobile home dealer for failure to accept an application for certificate of title for each and every vehicle, manufactured home or mobile home he sells to a consumer. These penalties shall be cumulative, supplemental and in addition to the penalties provided by any other law.

(11) This section shall apply to all designated agents appointed by the Department of Revenue under Section 63-21-13, that choose to electronically transmit information on applications for certificates of title to the Department of Revenue. This section shall not apply to other designated agents.

(12) Notwithstanding the foregoing, the Department of Revenue shall not issue a certificate of title to a manufactured home or mobile home with respect to which title has been retired to real property under Section 63-21-30 unless with respect to the same manufactured home or mobile home title has been severed from real property pursuant to Section 63-21-30.

HISTORY: Laws, 1996, ch. 539, § 1; Laws, 1997, ch. 458, § 1; Laws, 1999, ch. 396, § 2; Laws, 1999, ch. 556, § 7, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 4, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, substituted "Department of Revenue" for "State Tax Commission" everywhere it appears; inserted "(1)" following "63-21-45" in (5)(a); and added "(12)."

§ 63-21-17. Issuance of certificate of title; Department of Revenue to permanently maintain records of certificates of title, affidavits of affixation, manufacturers' certificates of origin, surrendered certificates of title, and affidavits of severance.

(1) The Department of Revenue shall examine each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle, manufactured home or mobile home on the form prescribed by the department.

(2) The Department of Revenue shall maintain a record of all certificates of title issued pursuant to the provisions of this chapter:

(a) Under a distinctive title number assigned to the vehicle, manufactured home or mobile home;

(b) Under the vehicle identification number;

(c) Under the name of the owner; and

(d) In the discretion of the Department of Revenue, by any other method the department determines.

(3) The Department of Revenue shall maintain a record of each affidavit of affixation filed in accordance with subsections (3), (4) and (5) of Section 63-21-30. The record shall state the name and mailing address of each owner of the related manufactured home, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under subsections (1) and (2) of Section 63-21-30, the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent that such data exists, and any other information the Department of Revenue prescribes.

(4) The Department of Revenue shall maintain a record of each manufacturer's certificate of origin submitted for the purpose of effectuating the retirement of title as provided in Section 63-21-30. The record shall state the name and mailing address of each owner of the manufactured home, the date

the manufacturer's certificate of origin was submitted, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under subsections (1) and (2) of Section 63-21-30, the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent that such data exists, and any other information the Department of Revenue prescribes.

(5) The Department of Revenue shall maintain a record of each certificate of title accepted for surrender as provided in subsection (5) of Section 63-21-30. The record shall state the name and mailing address of each owner of the manufactured home, the date the certificate of title was accepted for surrender, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of affixation under subsections (1) and (2) of Section 63-21-30, the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent that such data exists, and any other information the Department of Revenue prescribes.

(6) The Department of Revenue shall maintain a record of each affidavit of severance filed in accordance with subsection (6) of Section 63-21-30. The record shall state the name and mailing address of each owner of the related manufactured home, the county of recordation, the date of recordation, and the book and page number of each book of records in which there has been recorded an affidavit of severance under subsection (6) of Section 63-21-30, the name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent that such data exists, and any other information the Department of Revenue prescribes.

(7) Records of affidavits of affixation, submitted manufacturer's certificates of origin, surrendered certificates of title, and affidavits of severance shall be maintained permanently and be subject to public records request. The records of affidavits of affixation, submitted manufacturer's certificates of origin, and surrendered certificates of title shall include a statement that the manufactured home is real property as provided in subsections (13) and (14) of Section 63-21-30.

HISTORY: Codes, 1942, § 8125-28; Laws, 1968, ch. 531, § 8; Laws, 1999, ch. 556, § 8, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 5, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, substituted "Department of Revenue" and "department" for "State Tax Commission" and "commission" everywhere they appear in (1) and (2); and added (3) through (7).

Cross References — Procedure for permanently retiring title to manufactured or mobile home, see § 63-21-30.

§ 63-21-19. Contents and effect of certificate of title; attachment, etc., of certificate.

JUDICIAL DECISIONS

1. Ownership.

Heirs' argument that a decedent's girlfriend failed to establish the elements of an inter vivos gift by clear and convincing evidence failed because the burden of proof was on the heirs to disprove her rights to a truck; the girlfriend had full ownership rights of the truck from the time of the title application and when it was issued from the State Tax Commission (now Department of Revenue) because the truck was titled to her and the decedent. Amos v. Brown (In re Estate of Brown), 293 So. 3d 851, 2019 Miss. App. LEXIS 585 (Miss. Ct. App. 2019).

§ 63-21-25. Refusal to issue certificate of title.

The Department of Revenue shall refuse issuance of a certificate of title:

(a) If any required fee is not paid;

(b) If the department has reasonable grounds to believe that the applicant is not the owner of the vehicle, manufactured home or mobile home, or that the application contains a false or fraudulent statement, or that the applicant has failed to furnish required information or documents or any additional information the department reasonably requires; or

(c) If the certificate of title is to a manufactured home or mobile home with respect to which title has been retired to real property under Section 63-21-30 unless with respect to the same home title has been severed from real property pursuant to Section 63-21-30.

HISTORY: Codes, 1942, § 8125-33; Laws, 1968, ch. 531, § 13; Laws, 1999, ch. 556, § 13, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 6, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, added (c) and made related changes; and substituted "Department of Revenue" and "department" for "State Tax Commission" and "commission" everywhere they appear in (a) and (b).

§ 63-21-30. Permanent retirement of title to manufactured home or mobile home; procedure; affidavit of severance; affidavit of destruction.

(1) If the legal owner of a manufactured home or mobile home and the real property to which the manufactured home or mobile home has become affixed, wishes to permanently retire the title to a manufactured home or mobile home to real property, then such owner may file or cause to be filed an affidavit of affixation duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk of the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located, which contains or is accompanied by:

(a) The names and addresses of the legal owner or owners of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(b) The name of the manufacturer, the make, the model name, the model year, the dimensions, and the manufacturer's serial number or VIN of the manufactured home or mobile home, to the extent such data exists;

(c) The legal description and indexing instructions of the real property to which the manufactured home or mobile home is or shall be permanently affixed;

(d) A statement that the party executing the affidavit is the owner of the real property described therein;

(e) A statement that the manufactured home is to be taxed as an improvement to the real property;

(f) A statement that either:

(i) The manufactured home or mobile home is covered by a certificate of title that the owner shall surrender to the Department of Revenue;

(ii) The manufactured home or mobile home is covered by a manufacturer's statement or certificate of origin that the owner shall surrender to the Department of Revenue; or

(iii) The manufactured home or mobile home is not covered by a certificate of title and the owner of the manufactured home or mobile home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home or mobile home, together with a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of the manufactured home or mobile home, or other due proof of ownership acceptable to the Department of Revenue;

(g) A statement whether or not the manufactured home or mobile home is subject to one or more security interests or liens and if the manufactured home or mobile home is subject to one or more security interests or liens, the name and address of each party holding a security interest in or lien on the manufactured home or mobile home, including each holder shown on any certificate of title issued by the Department of Revenue, if any, the original principal amount secured by each security interest or lien;

(h) A lien release as to each party holding a security interest in or lien on the manufactured home or mobile home;

(i) A statement that:

(i) All permits required by applicable governmental authorities have been obtained;

(ii) The homeowner intends that the mobile home or manufactured home be an immovable fixture and a permanent part of the real property; and

(iii) The wheels and axles have been removed;

(j) A statement that the manufactured home is permanently connected to a septic or sewer system and other utilities such as electricity, water and/or gas;

(k) A statement that all ad valorem taxes due and payable for the manufactured home or mobile home and land on which it is located have been paid, together with a paid receipt for the prior year confirming the same;

(*l*) If different than the owner, the name and address of a person authorized to file a certified copy of the affidavit of affixation with the tax collector after it has been duly recorded in the real property records;

(m) A statement authorizing the tax collector or other designated agent to submit the completed application to the Department of Revenue for retirement of the title to the manufactured home or mobile home to real property; and

(n) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(2) The chancery clerk, upon receipt of an affidavit of affixation meeting the requirements set forth in subsection (1) of this section and applicable fee to record the affidavit and provide a certified copy thereof, shall record the affidavit of affixation in the official records and shall provide a certified copy of the recorded affidavit to the owner or other party submitting the affidavit of affixation for recording. The chancery clerk shall forward a copy of the recorded affidavit of affixation to the county tax assessor in order to assist in locating and identifying the manufactured home or mobile home for property tax purposes.

(3) After completing the requirements in subsections (1) and (2) of this section, the owner of the manufactured home or mobile home, or lienholder as shown on the certificate of title pursuant to a power of attorney from the owner of the manufactured home or mobile home, if such lienholder is a designated agent, or the person authorized in the affidavit of affixation, shall file a certified copy of the recorded affidavit of affixation with the tax collector of the county where the manufactured home or mobile home is located for retirement of the home's title, accompanied by:

(a) A copy of the deed or other instrument of conveyance of legal ownership to the real property to which the manufactured home or mobile home has become affixed conveying a fee simple or other legal ownership interest in the subject real property; and

(b) One (1) of the following:

(i) The certificate of title to the manufactured home or mobile home duly endorsed or otherwise showing the release of any lienholders noted on the certificate of title;

(ii) The manufacturer's certificate of origin; or

(iii) If the manufactured home or mobile home is not covered by a certificate of title and the owner of the manufactured home or mobile home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the manufactured home or mobile home, a statement to that effect in the affidavit of affixation, together with a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of the manufactured home or mobile home, or other due proof of ownership acceptable to the Department of Revenue.

(4) Upon receipt of the affidavit of affixation and accompanying documents, the tax collector shall submit the completed application for the retirement of the title to the manufactured home or mobile home to the Department of Revenue.

(5) Upon receipt of an application containing the items required in subsections (3) and (4) of this section, the Department of Revenue shall retire the title and shall notify the applicant, the lender, and authorized representative, if any, in writing at the address shown in the affidavit that the title to the manufactured home or mobile home has been retired. If the affidavit of affixation indicates that the manufactured home or mobile home is currently covered by a certificate of origin or is not covered by a certificate of title and after diligent search and inquiry the owner is unable to produce the original manufacturer's certificate of origin, but otherwise provides a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of manufactured home or mobile home, or other due proof of ownership in a form acceptable to the Department of Revenue, then the Department of Revenue may issue a certificate of title for the purpose of effectuating the retirement of title.

(6) If the legal owner of the manufactured home or mobile home whose title has been retired under this section and the real property to which the manufactured home or mobile home has become affixed, wishes to detach or sever the manufactured home or mobile home from the real property, then such owner may file or cause to be filed an affidavit of severance duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk in the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located, which contains or is accompanied by:

(a) The names and mailing addresses of the legal owners of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(b) A description of the manufactured home or mobile home including the name of the manufacturer, the model year, make, width, length, and the serial number or VIN of the manufactured home or mobile home;

(c) The book and page number or instrument number, and date of recordation of the affidavit of affixation;

(d) A statement that the party executing the affidavit is the owner of the real property described in the affidavit of affixation;

(e) A statement that the manufactured home is no longer to be taxed as an improvement to the real property;

(f) A statement whether or not the manufactured home or mobile home and real property to which the home is affixed is subject to one or more security interests or liens and if the same is subject to one or more security interests or liens, the name and address of each party holding a security interest in or lien on the manufactured home or mobile home and the real property to which it is affixed, the original principal amount secured by each security interest or lien and a statement that the security interest or lien as to the manufactured home or mobile home shall be released;

(g) A lien release as to the manufactured home or mobile home or, if the lienholder desires to retain a security interest or lien in the manufactured home or mobile home after title is severed from the real property, a lienholder's statement of the names and addresses of any lienholders in the order of their priority and the dates of their mortgages, deeds of trust or other liens filed of record upon the real property;

(h) A statement that all ad valorem taxes due and payable for the land on which the manufactured home or mobile home is located have been paid, together with paid receipts for the prior year confirming the same and acknowledgement that taxes for the current year, which are assessed but not yet due and payable, will be based on the status of the manufactured home or mobile home and real property to which it is attached as of January 1 of the current year;

(i) If different than the owner, the name and address of a person authorized to file a certified copy of the affidavit of severance with the tax collector after it has been duly recorded in the real property records and the person has received the newly issued certificate of title from the Department of Revenue;

(j) A statement authorizing the tax collector or other designated agent to submit the completed application to the Department of Revenue for the issuance of a new certificate of title to the manufactured home or mobile home; and

(k) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(7) If a manufactured home or mobile home whose title has been retired pursuant to this section is destroyed completely or otherwise becomes uninhabitable, and the legal owner of the manufactured home or mobile home, and the real property to which the manufactured home or mobile home was affixed, desires to document the destruction or uninhabitability thereof, then the owner of such destroyed or uninhabitable manufactured home or mobile home may file an affidavit of destruction duly sworn to and acknowledged before any officer or person authorized to administer an oath under the laws of this state in the official records of the chancery clerk in the county and applicable judicial district, if any, in which the real property is located, which contains or is accompanied by:

(a) The date and cause of destruction or uninhabitability of the manufactured home or mobile home;

(b) The names and mailing addresses of the legal owner of the manufactured home or mobile home and real property to which the manufactured home or mobile home has become affixed;

(c) A description of the manufactured home or mobile home including the name of the manufacturer, the model year, make, width, length and the serial number or VIN of the manufactured home;

(d) The book and page number or instrument number, and date of recordation of the affidavit of affixation;

(e) A statement that the party executing the affidavit is the owner of the real property described in the affidavit of affixation; and

(f) Due acknowledgement of the signature of each affiant as required by Section 89-3-1 et seq. or any successor statute.

(8) The chancery clerk, upon receipt of an affidavit of severance meeting the requirements set forth in subsection (6) of this section or an affidavit of destruction meeting the requirements set forth in subsection (7) of this section and applicable fee to record the affidavit and provide a certified copy thereof, shall record the affidavit of severance or destruction, as applicable, in the official records and provide a certified copy of the recorded affidavit to the owner or other party submitting the affidavit for recording and shall forward a copy of the affidavit to the county tax assessor in order to assist in (a) in the case of an affidavit of severance, locating and identifying the manufactured home or mobile home for property tax purposes; or (b) in the case of an affidavit of destruction, removing the manufactured home or mobile home from the tax roll.

(9) After completing the requirements in subsections (6) and (8) of this section, the owner of the manufactured home or mobile home, and the real property to which the manufactured home or mobile home has become affixed with a recorded and retired title, or the person authorized in the affidavit of severance, shall file a certified copy of the duly recorded affidavit of severance with the tax collector of the county where the manufactured home or mobile home is located for the issuance of a new certificate of title to the manufactured home or mobile home, accompanied by:

(a) An abstract of land title showing legal ownership of the manufactured home or mobile home and real property along with any unreleased mortgages, deeds of trust or other liens filed of record upon the real property;

(b) A lien release as to the manufactured home or mobile home or a lienholder's statement of the names and addresses of any lienholders in the order of their priority; and

(c) The required fee for the certificate of title for the manufactured home or mobile home.

(10) Upon receipt of the items required in subsection (9) of this section, the tax collector of the county where the manufactured home or mobile home is located shall, for any manufactured home or mobile home for which a certificate of title would be required under Section 63-21-9, submit the completed application to the Department of Revenue for the issuance of a new certificate of title to the legal owner of the real property identified in the affidavit of severance.

(11) Upon receipt of an application containing the items required in subsection (10) of this section, the Department of Revenue shall issue a new

certificate of title in the name of the legal owner(s) of the real property to which the manufactured home or mobile home was attached and, if applicable, shall list the lienholders, if any, in the order of their priority as shown in the abstract of title. The new certificate of title shall be delivered to the applicant or authorized representative, if any, at the address shown in the affidavit.

(12) Upon completing the requirements in subsection (10) of this section, the conveyance of and the perfection of a security interest in a manufactured home or mobile home shall be governed by the provisions of Chapter 21, Title 63, Mississippi Code of 1972, or Chapter 9, Title 75, Mississippi Code of 1972, as applicable.

(13) A manufactured home or mobile home shall be deemed real property for all purposes and shall be governed by the laws applicable thereto, upon the occurrence of all of the following events:

(a) An affidavit of affixation conforming to subsection (1) of this section has been duly recorded; and

(b) An application for retirement of the title to a manufactured home or mobile home conforming to subsection (3) of this section has been filed with the Department of Revenue.

When an application for retirement is filed with the Department of Revenue within sixty (60) days of recording the related affidavit of affixation in the official records of the chancery clerk in the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located and the application is thereafter accepted by the department, the requirements of this section shall be deemed satisfied as of the date the affidavit of affixation is recorded.

(14) A manufactured home or mobile home whose title has been retired pursuant to this section shall be conveyed by deed or other real property contract and shall only be transferred or otherwise contracted together with the real property to which it is affixed, unless and until the procedures described in this section for severance or destruction and issuance of a new title are followed. The legal description in any such conveyance instrument may include a recitation that the real property includes a manufactured home or mobile home permanently affixed to the real property but such a recitation is not required.

(15) If the title has been retired under this section, for purposes of perfecting, realizing, and foreclosure of security interests, a separate security interest in the manufactured home or mobile home shall not exist, and the manufactured home or mobile home shall only be secured as part of the real property to which it is attached through a mortgage or deed of trust and such lien shall automatically attach as of the date of recording and must be foreclosed in the same manner as a mortgage on real property.

(16) Upon written request, the Department of Revenue shall provide written acknowledgment of compliance with the provisions of this section. Such written acknowledgment may be filed in the official records of the chancery clerk in the county, or in the judicial district in counties having more than one (1) such district, in which the real property is located.

(17) This section applies to the sale or transfer of manufactured homes or mobile homes occurring on or after January 1, 2019, or to any person who voluntarily elects to retire the title to the manufactured home or mobile home pursuant to this section.

(18) Recordation of the affidavit of affixation pursuant to subsections (1) and (2) of this section shall be prima facie evidence that the manufactured home or mobile home has become affixed to the real property as an improvement to real property and shall satisfy the requirements of 11 USC Section 1322(b)(2), or any successor statute, to the extent the manufactured home or mobile home constitutes the owner's principal residence.

(19) The affidavit of affixation required pursuant to this section shall be in substantially the following form:

THE INSTRUMENT PREPARED BY:	INDEXING INSTRUCTIONS:
______________________________	______________________________
______________________________	______________________________

AFFIDAVIT OF AFFIXATION

(MANUFACTURED HOME OR MOBILE HOME)

STATE OF______________
COUNTY OF______________

Before me, the undersigned notary public in and for said county and state, appeared [type the name and address of each homeowner signing this affidavit], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) own(s) the manufactured home or mobile home ("home") described as follows:

____
Manufacturer's Name Make Model Name Model Year

____
Manufacturer's Serial No./VIN Length/Width New/Used

2. The home is or will be located at the following "property address":

____
Street City County State Zip Code

3. The legal description of the real property where the home is or will be permanently affixed ("land") is:

[insert legal description]

4. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

5. The home shall be assessed and taxed as an improvement to the land.

6. Check one:

[ ] The home is currently covered by a certificate of title and the homeowner shall surrender the original title to a designated agent on behalf of the Department of Revenue;

[ ] The home is currently covered by a manufacturer's certificate of origin and the homeowner shall submit the original certificate of origin to a designated agent on behalf of the Department of Revenue; or

[ ] The home is not covered by a certificate of title and the owner of the manufactured home, after diligent search and inquiry, is unable to produce the original manufacturer's certificate of origin for the home, and a bill of sale, paid tax receipts showing assessment in the name of the owner for a period of not less than ten (10) years, an installment contract reflecting the serial number or VIN of manufactured home or mobile home, or other due proof of ownership in a form acceptable to the Department of Revenue is attached hereto.

7. The home (check one):

[ ] is not subject to any security interest or lein; or

[ ] is subject to the following security interests or liens:

____

Lienholder #1 Original Principal Amount Secured

____

Address:

____

Lienholder #2 Original Principal Amount Secured

____

Address:

8. Other than those disclosed in this affidavit, the homeowner is not aware of (a) any other security interest or lien affecting the home; and (b) any other facts or information that could reasonably affect the validity of the title of the home or the existence or nonexistence of security interests or lien in it.

9. A release of personal property security interest or lien from each of the lienholders identified in paragraph 7 of this affidavit, if any, is attached hereto.

10. (a) All permits required by applicable governmental authorities have been obtained; (b) the wheels and axles have been removed; and (c) the home is or will be permanently connected to a septic or sewer system and other utilities such as electricity, water and/or gas.

11. The home is or shall become an immovable fixture and a permanent part of the real property.

12. All ad valorem taxes currently due and payable for the home and the land to which it is attached have been paid and a receipt for the prior year confirming the same are attached hereto.

13. The homeowner(s) hereby authorize(s) the following person(s) to file an application to retire title to the home with the tax collector of the county where the manufactured home or mobile home is located and to receive written acknowledgement from the Department of Revenue of retirement of title:

Name of Authorized Representative____________________

Mailing Address________________________Phone Number________________

14. The homeowner(s) hereby authorize(s) the tax collector to submit the completed application on behalf of the homeowner(s) to the Department of Revenue to permanently retire title to the manufactured home or mobile home

to herein described land. This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the county, or in the judicial district in counties having more than one (1) such district, in which the home is located.

Further, affiant(s) sayeth naught.

____

Signature of Homeowner #1

____

Printed Name Address City State Zip Code

____

Signature of Homeowner #2 (If more than one homeowner):

____

Printed Name Address City State Zip Code

Sworn to and subscribed before me this the ____ day of ________, 20____.

____

Notary Public

My Commission Expires: ______________________

(20) The affidavit of severance required pursuant to this section shall be in substantially the following form:

THE INSTRUMENT PREPARED BY:	INDEXING INSTRUCTIONS:
______________________	______________________
______________________	______________________

AFFIDAVIT OF SEVERENCE

(MANUFACTURED HOME OR MOBILE HOME)

STATE OF______________

COUNTY OF______________

Before me, the undersigned notary public in and for said county and state, appeared [type the name and address of each homeowner signing this affidavit], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) own(s) the manufactured home or mobile home ("home") described as follows:

____

Manufacturer's Name Make Model Name Model Year

____

Manufacturer's Serial No./VIN Length/Width New/Used

2. The title to the home was previously retired pursuant to that certain affidavit of affixation recorded on______________in Book________, Page________ or as Instrument____________.

3. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

4. Upon the recording hereof, the home shall no longer be assessed and taxed as an improvement to real property.

5. The home (check one):

[ ] is not subject to any security interest or lein; or

[ ] is subject to the following security interests or liens:

Lienholder #1 Original Principal Amount Secured

Address:

Lienholder #2 Original Principal Amount Secured

Address:

6. Other than those disclosed in this affidavit, the homeowner is not aware of (a) any other security interest or lien affecting the home; or (b) any other facts or information that could reasonably affect the validity of the title of the home or the existence or nonexistence of security interests or lien in it.

7. Check one:

[ ] A release of the real property security interest or lien from each of the lienholders identified in paragraph 6 of this affidavit, if any, is attached hereto; or

[ ] A statement from each of the lienholders identified in paragraph 6 of this affidavit is attached hereto authorizing the lienholder's security interest or lien to be recorded on the face of the certificate of title and, if more than one lienholder, the order of priority of the same.

8. All ad valorem taxes due and payable for the land on which the home is located have been paid, and a paid receipt for the prior year confirming the same are attached hereto. Homeowner acknowledges that taxes for the current year, which are assessed but not yet due and payable, will be based on the status of the home and land to which it is attached as of January 1 of the current year.

9. The homeowner(s) hereby authorize(s) the following person(s) to file a certified copy of the affidavit of severance with the tax collector of the county where the manufactured home or mobile home is located and to receive the newly issued certificate of title from the Mississippi Department of Revenue:

Name of Authorized Representative____________________

Mailing Address________________________Phone Number________________

10. The homeowner(s) hereby authorize(s) the tax collector to submit the completed application on behalf of the homeowner(s) to the Department of Revenue to sever title to the manufactured home or mobile home from herein described land and issue a new certificate of title in the name of the homeowner(s).

This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the county in which the home is located.

Further, affiant(s) sayeth naught.

____
Signature of Homeowner #1

____
Printed Name Address City State Zip Code

____
Signature of Homeowner #2 (If more than one homeowner):

____
Printed Name Address City State Zip Code

Sworn to and subscribed before me this the ____ day of ________, 20____.

____
Notary Public
My Commission Expires: ____________________________

(21) The affidavit of destruction required pursuant to this section shall be in substantially the following form:

THE INSTRUMENT PREPARED BY:	INDEXING INSTRUCTIONS:
____________________	____________________
____________________	____________________

AFFIDAVIT OF DESTRUCTION

(MANUFACTURED HOME OR MOBILE HOME)

STATE OF________________
COUNTY OF________________

Before me, the undersigned notary public in and for said county and state, appeared [type the name and address of each homeowner signing this affidavit], known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed below (each a "homeowner"), and who, being by me first duly sworn, did each by personal oath state as follows:

1. Homeowner(s) own(s) the manufactured home or mobile home ("home") described as follows:

____
Manufacturer's Name Make Model Name Model Year

____
Manufacturer's Serial No./VIN Length/Width New/Used

2. The title to the home was previously retired pursuant to that certain affidavit of affixation recorded on________________ in the official land records of in____________County, Mississippi, in Book________, Page________ or as Instrument____________.

3. The homeowner(s) executing below is/are all the legal owner(s) of the real property to which the home has become permanently affixed.

4. The home was destroyed or became uninhabitable on ________________ (insert date) as a result of ________________________ (describe cause).

This affidavit is executed by homeowner(s) pursuant to applicable state law and shall be recorded in the official land records in the county, or in the judicial district in counties having more than one (1) such district, in which the home is located.

Further, affiant(s) sayeth naught.

____
Signature of Homeowner #1

____
Printed Name Address City State Zip Code

____
Signature of Homeowner #2 (If more than one homeowner):

____
Printed Name Address City State Zip Code

Sworn to and subscribed before me this the ____ day of ________, 20____.

____
Notary Public
My Commission Expires: ______________________________

HISTORY: Laws, 2003, ch. 376, § 1, eff from and after passage (approved Mar. 13, 2003.); Laws, 2018, ch. 401, § 7, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, rewrote the section, which read: "The certificate of title issued for a manufactured home that is classified as real property may be mailed or delivered to the State Tax Commission for cancellation. The State Tax Commission may require any documents or information that it considers necessary to be mailed or delivered to the commission along with the certificate of title."

§ 63-21-37. Issuance of new certificate of title; disposition of surrendered certificates.

Except as provided in subsection (c) of Section 63-21-25, the Department of Revenue, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other documents required by the Department of Revenue, shall issue a new certificate of title in the name of the transferee as owner and mail it to the first lienholder named in it or, if none, to the owner.

Except as provided in subsection (c) of Section 63-21-25, the Department of Revenue, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the outstanding certificate of title is not delivered to the Department of Revenue, the department shall make demand therefor from the holder thereof.

The Department of Revenue shall file every surrendered certificate of title, every manufacturer's certificate of origin, or a microfilm of every such certificate, for a period of time deemed necessary by it in order to permit the tracing of title of the vehicle, manufactured home or mobile home designated therein. Such filing requirement shall be in addition to and not in substitution for the recordkeeping requirements set forth in Section 63-21-17, which recordkeeping requirements are not limited to any period of time.

HISTORY: Codes, 1942, § 8125-38; Laws, 1968, ch. 531, § 18; Laws, 1999, ch. 556, § 19, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 8, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, substituted "Department of Revenue" and "department" for "State Tax Commission" and "commission" everywhere they appear; added the exception at the beginning of the first and second paragraphs; and in the last paragraph, inserted "every manufacturer's certificate" and added the last sentence.

§ 63-21-39. Procedure where vehicle scrapped, dismantled or destroyed; procedure where title for vehicle being transferred to used motor vehicle parts dealer or scrap metal processor is unavailable; obtaining title on vehicle with salvage certificate of title; Salvage Certificate of Title Fund; regulations; penalties for violation of section.

(1)(a) An owner who scraps, dismantles or destroys a vehicle and a person who purchases a vehicle as scrap or to be dismantled or destroyed shall indicate same on the back of the certificate of title and shall immediately cause the certificate of title and any other documents required by the Department of Revenue to be mailed or delivered to the Department of Revenue for cancellation. A certificate of title of the vehicle shall not again be issued except upon application containing the information the Department of Revenue requires, accompanied by a certificate of inspection in the form and content specified in Section 63-21-15(5) and proof of payment of a fee as provided in subsection (2) of this section.

(b) Notwithstanding any other provision of this chapter to the contrary, if the owner or authorized agent of the owner has not obtained a title in his or her name for the vehicle to be transferred, has lost the title for the vehicle to be transferred, or has returned the title to the Department of Revenue in accordance with Section 63-21-39(1)(a), he or she may sign a statement swearing that, in addition to the foregoing conditions, the vehicle is at least ten (10) model years old. The statement described in this paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle parts dealer or scrap metal processor. The department shall promulgate a form for the statement which shall include, but not be limited to:

(i) A statement that the vehicle shall never be titled again; it must be dismantled or scrapped;

(ii) A description of the vehicle including the year, make, model and vehicle identification number;

(iii) The name, address, and driver's license number of the owner;

(iv) A certification that the owner:

1. Never obtained a title to the vehicle in his or her name; or
2. Was issued a title for the vehicle, but the title was lost or stolen;

(v) A certification that the vehicle:

1. Is at least ten (10) model years old; and

2. Is not subject to any security interest or lien;

(vi) An acknowledgment that the owner and buyer of the vehicle realizes this form will be filed with the department and that:

1. It is a misdemeanor, punishable by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment for not more than six (6) months, or both, for conviction of a first offense of knowingly falsifying any information on this statement; and

2. It is a felony, punishable by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00) or imprisonment for not less than one (1) year nor more than five (5) years, or both, for conviction of a second or subsequent offense of knowingly falsifying any information on this statement;

(vii) The owner's signature and the date of the transaction;

(viii) The name and address of the business acquiring the vehicle;

(ix) The National Motor Vehicle Title Information System identification number; and

(x) The business agent's signature and date along with a printed name and title if the agent is signing on behalf of a corporation.

(c) Until such time as the department makes available an Internet-based system, the used motor vehicle parts dealer or scrap metal processor shall mail or otherwise deliver the statement required under paragraph (b) of this subsection (1) to the Department of Revenue within three (3) business days of the completion of the transaction, requesting that the department cancel the Mississippi certificate of title and registration. Once the department develops an Internet-based system, the used motor vehicle parts dealer or scrap metal processor shall utilize such system and within two (2) business days electronically submit the information contained in the statement using that system.

(d) Within two (2) business days of each day's close of business, the used motor vehicle parts dealer or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver in a format approved by the department, by electronic means once developed and made available by the department, a list of all such vehicles purchased that day for scrap or for parts. That list shall contain the following information:

(i) The name, address and contact information for the reporting entity;

(ii) The vehicle identification numbers of such vehicles;

(iii) The dates such vehicles were obtained;

(iv) The names of the individuals or entities from whom the vehicles were obtained, for use by law enforcement personnel and appropriate governmental agencies only;

(v) A statement of whether the vehicles were, or will be, crushed or disposed of, or offered for sale or other purposes;

(vi) A statement of whether the vehicle is intended for export out of the United States; and

(vii) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle.

(e)(i) For purposes of this subsection, the term "motor vehicle" shall not include a vehicle which has been crushed or flattened by mechanical means such that it is no longer the motor vehicle as described by the certificate of title, or such that the vehicle identification number is no longer visible or accessible.

(ii) In cases in which crushed or flattened vehicles are purchased or received, the purchasing or receiving used motor vehicle parts dealer or scrap metal processor shall verify that the seller has reported the vehicles in accordance with this subsection. Such verification may be in the form of a certification from the seller or a contract between the seller and the purchasing or receiving used motor vehicle parts dealer or scrap metal processor attesting to the seller's compliance with the reporting requirements of this subsection. Such verification must clearly identify the seller by a government issued photograph identification card or employer identification number, and the verification and copy of the identification card or number shall be maintained by the purchasing or receiving used motor vehicle parts dealer or scrap metal processor for a period of not less than two (2) years.

(f) The information obtained by the department in accordance with paragraph (d) of this subsection (1) shall be reported to the National Motor Vehicle Title Information System, in a format that will satisfy the requirement for reporting this information, in accordance with rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

(g) Until such time as the department develops and makes available the Internet-based system described in paragraph (d) of this subsection, the used motor vehicle parts dealer or scrap metal processor who purchases or receives motor vehicles for scrap or for parts shall deliver the information required by paragraph (d) to the National Motor Vehicle Title Information System through any data consolidator approved by such system, within forty-eight (48) hours of the day the vehicle was purchased or acquired by such used motor vehicle parts dealer or scrap metal processor which shall satisfy the requirements of paragraph (d).

(h) The information obtained by the department in accordance with paragraph (d) of this subsection (1) shall be made available only to law enforcement agencies and for purposes of canceling certificates of title. The information shall otherwise be considered to be confidential business information of the respective reporting entities.

(i) All records required under the provisions of this subsection shall be maintained for a period of two (2) years by the reporting entity and shall include a scanned or photocopied copy of the seller's or seller's representative's driver's license or state-issued identification card.

(j) A person who knowingly and willfully violates this subsection (1), or any person who knowingly and willfully falsifies or assists another person in falsifying the statement or information required under paragraphs (b) or (d) of this subsection, or any person who knowingly and willfully sells a vehicle upon which there is an unsatisfied lien or security interest, or who purchases a vehicle without complying with either subsection (1)(a) or (1)(b) of this section and who knowingly and willfully destroys or dismantles a vehicle upon which he knows that there is an unsatisfied lien or security interest shall:

(i) Be guilty of a misdemeanor, punishable by a fine not more than One Thousand Dollars ($1,000.00) or imprisonment for not more than six (6) months, or both, for conviction of a first offense; or

(ii) Upon conviction of a second or subsequent offense, a felony, punishable by imprisonment for not less than one (1) year nor more than five (5) years or a fine of not less than One Thousand Dollars ($1,000.00) nor more than Five Thousand Dollars ($5,000.00), or both.

In addition, the court may order each person convicted to pay restitution to any party suffering monetary loss in the amount of such loss. No part of any sentence imposed by the court shall be suspended unless such restitution has been paid in full.

(k) A person who knowingly and willfully fails to deliver the title as required under paragraph (a) of this subsection, or the statement required under paragraph (b) of this subsection to the Department of Revenue within seventy-two (72) hours of the completion of the transaction, or who, until such time as the department develops and makes available the Internet-based system described in paragraph (d), fails to deliver the information required by paragraph (d) to the National Motor Vehicle Title Information System through any data consolidator approved by such system, within two (2) business days of the day the vehicle was purchased or acquired by such used motor vehicle parts dealer or scrap metal processor shall be in violation of this section, and subject to a civil penalty of up to One Thousand Dollars ($1,000.00) per violation. Actions to impose this penalty may be brought by any local or state law enforcement agency, district attorney, or by the Attorney General, in any court of competent jurisdiction. One-half (1/2) of the monies generated from such civil penalties shall be deposited in a special fund created in the State Treasury for use by the Department of Revenue's Title Bureau, and one-half (1/2) of the monies generated from such civil penalties shall be deposited in the general fund of the municipality if the suit was brought in a municipal court, or in the general fund of the county if the suit was brought in the court of a county.

(2) For the purpose of requesting a branded title on a vehicle with a salvage certificate of title, every owner of a vehicle that has been issued a salvage certificate of title in this state or any other state which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to be issued shall make application to the Department of Revenue, accompanied by a certificate of inspection issued by the Department of Public Safety in the form and content specified in Section 63-21-15(5) and the payment of a fee of Seventy-five Dollars ($75.00) for each motor vehicle for which a certificate of inspection is issued. In

addition, the Department of Public Safety may charge such a person a fee in the amount of Twenty-five Dollars ($25.00) for performing any vehicle identification number verification required by federal law or regulation for the vehicle for which the person is applying for a title. All such monies shall be collected by the Department of Public Safety and paid to the State Treasurer for deposit in a special fund that is hereby created in the State Treasury to be known as the "Salvage Certificate of Title Fund." Monies in the special fund may be expended by the Department of Public Safety, upon appropriation by the Legislature. The Department of Revenue shall establish by regulation the minimum requirements by which a vehicle which has been issued a salvage certificate of title may be issued a branded title.

(3) Before a branded title may be issued for a vehicle for which a salvage certificate of title has been issued, the applicant shall submit, by hand delivery or mail, such documents and information to the Department of Public Safety as the department may require for the purpose of determining if the vehicle complies with the requirements of this section and all applicable regulations promulgated by the Commissioner of Public Safety and the Department of Revenue. The Department of Public Safety also may require that an applicant bring a vehicle for which application for a branded title is being made to a Highway Patrol facility for a visual inspection whenever the department deems that a visual inspection is necessary or advisable. Nothing in this section shall be construed to prohibit inspectors of the Mississippi Highway Patrol from conducting on-site inspections and investigations of motor vehicle rebuilders or motor vehicle repair businesses to determine if such businesses are in compliance with all applicable laws relating to the motor vehicle title laws of this state and regulations promulgated by the Commissioner of Public Safety and the Department of Revenue.

HISTORY: Codes, 1942, § 8125-39; Laws, 1968, ch. 531, § 19; Laws, 1991, ch. 575, § 3; Laws, 2006, ch. 466, § 1; Laws, 2011, ch. 451, § 3; Laws, 2013, ch. 570, § 1, eff from and after July 1, 2013; Laws, 2018, ch. 358, § 2, eff from and after July 1, 2018.

Amendment Notes — The 2018 amendment deleted "a clear title or" preceding "a branded title" near the beginning of the first sentence, and in the first and second sentences of (3); and substituted "may be issued a branded title" for "may be issued a clear title" at the end of (2).

§ 63-21-43. Perfection of security interests.

(1) Unless excepted by Section 63-21-41, a security interest in a vehicle, manufactured home or mobile home of a type which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or lienholders of the vehicle, manufactured home or mobile home unless perfected as provided in this chapter.

(2)(a) A security interest is perfected at the time the owner signs a security agreement describing the vehicle, manufactured home or mobile home, the secured party gives value, the owner has rights in the vehicle, manufactured home or mobile home, and an application for certificate of title signed by the owner is presented to a designated agent; provided, however, that a purchase money security interest under Chapter 9, Title 75 (Uniform Commercial Code - secured transactions) in a mobile home or a manufactured home is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest attaches.

(b) The designated agent shall deliver to the Department of Revenue the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the date of his security agreement, and the required fee, but the security interest will perfect at the time the requirements of subsection 2(a) of this section are met.

(3) If a vehicle, manufactured home or mobile home is subject to a security interest when brought into this state, the validity of the security interest is determined by the law of the jurisdiction where the vehicle, manufactured home or mobile home was when the security interest attached, subject to the following:

(a) If the parties understood at the time the security interest attached that the vehicle, manufactured home or mobile home would be kept in this state and it was brought into this state within thirty (30) days thereafter for purposes other than transportation through this state, the validity of the security interest in this state is determined by the law of this state.

(b) If the security interest was perfected under the law of the jurisdiction where the vehicle, manufactured home or mobile home was when the security interest attached, the following rules apply:

(i) If the name of the lienholder is shown on an existing certificate of title issued by that jurisdiction, his security interest continues perfected in this state.

(ii) If the name of the lienholder is not shown on an existing certificate of title issued by that jurisdiction the security interest continues perfected in this state for four (4) months after a first certificate of title of the vehicle, manufactured home or mobile home is issued in this state, and also thereafter if, within the period of four (4) months, it is perfected in this state. The security interest may also be perfected in this state after the expiration of the period of four (4) months, in which case perfection dates from the time of perfection in this state.

(c) If the security interest was not perfected under the law of the jurisdiction where the vehicle, manufactured home or mobile home was when the security interest attached, it may be perfected in this state, in which case perfection dates from the time of perfection in this state.

(d) A security interest may be perfected under paragraph (b)(ii) or paragraph (c) of this subsection, either as provided in subsection (2), or by the holder of the lien created out of this state delivering to a county tax collector or a designated agent a notice of security interest in the form the Department of Revenue prescribes, together with documents to support the security interest as required by the Department of Revenue and the required fee. The county tax collector or a designated agent shall process said notice in the manner prescribed by the Department of Revenue.

HISTORY: Codes, 1942, § 8125-41; Laws, 1968, ch. 531, § 21; Laws, 1970, ch. 483, § 6; Laws, 1977, ch. 313; Laws, 1995, ch. 437, § 1; Laws, 1999, ch. 556, § 22, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 9, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, substituted "Department of Revenue" for "State Tax Commission" everywhere it appears; and added the proviso in (2)(a).

§ 63-21-49. Procedure upon release of security interest.

JUDICIAL DECISIONS

1. Violation of automatic stay.

Where creditor willfully violated the automatic stay by repossessing debtors' vehicle, an award of punitive damages was warranted, as creditor's actions evidenced a blatant disregard for the bankruptcy process and a pattern of disrespect for the court. Amount of punitive damages awarded ensured that creditor's security interest in the vehicle was cancelled; thus, creditor was required to release his lien on the vehicle and deliver the certificate of title to debtors in accordance with Mississippi law, and debtors' objection to the proof of claim was granted. In re Adams, 516 B.R. 361, 2014 Bankr. LEXIS 3575 (Bankr. S.D. Miss. 2014).

§ 63-21-57. Filing and recording of notices of security interests; examination of record prior to issuance or reissuance of certificate of title.

The Department of Revenue shall file each notice of security interest received by the department with the required fee and maintain a record of all notices of security interests filed by the department:

(a) Alphabetically, under the name of the owner;

(b) Under the vehicle, manufactured home or mobile home identification number;

(c) Under the certificate of title number; and

(d) In the discretion of the department, by any other method it determines.

The department, before issuing or reissuing a certificate of title, shall check the name of the owner and the certificate of title number of the vehicle, manufactured home or mobile home against the record above provided for.

The recordkeeping requirements are in addition to the recordkeeping requirements set forth in Section 63-21-17 and Section 63-21-37. The records required to be maintained by Section 63-21-17 shall be maintained indefinitely.

HISTORY: Codes, 1942, § 8125-52; Laws, 1968, ch. 531, § 32; Laws, 1999, ch. 556, § 27, eff from and after July 1, 1999; Laws, 2018, ch. 401, § 10, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, substituted "Department of Revenue" and "department" for "State Tax Commission" and "commission" everywhere they appear; and added the last paragraph.

§ 63-21-59. Suspension or revocation of certificate of title.

JUDICIAL DECISIONS

1. Ownership.

Heirs' argument that a decedent's girlfriend failed to establish the elements of an inter vivos gift by clear and convincing evidence failed because the burden of proof was on the heirs to disprove her rights to a truck; the girlfriend had full ownership rights of the truck from the time of the title application and when it was issued from the State Tax Commission (now Department of Revenue) because the truck was titled to her and the decedent. Amos v. Brown (In re Estate of Brown), 293 So. 3d 851, 2019 Miss. App. LEXIS 585 (Miss. Ct. App. 2019).

§ 63-21-64. Fees paid to Department of Revenue for issuing and processing necessary documents.

There shall be paid to the Department of Revenue for issuing and processing documents required by this chapter, fees for manufactured homes or mobile homes according to the following schedule:

(a) Each application for certificate of title	$ 9.00
(b) Each application for replacement or corrected certificate of title	9.00
(c) Each suspension or revocation of certificate of title	9.00
(d) Each notice of security interest	9.00
(e) Each release of security interest	9.00
(f) Each assignment by lienholder	9.00
(g) Each application for information as to the status of the title of a manufactured home or mobile home	9.00
(h) Each application for retirement, destruction or severance of title pursuant to Section 63-21-30	9.00

The designated agent may add the sum of One Dollar ($1.00) to each document processed for which a fee is charged to be retained as his commission for services rendered. All other fees collected shall be remitted to the department.

If more than one (1) transaction is involved in any application on a single manufactured home or mobile home and if supported by all required documents, the fee charged by the Tax Commission's designated agent for processing and issuing shall be considered as only one (1) transaction.

HISTORY: Laws, 1999, ch. 556, § 32; Laws, 2010, ch. 496, § 2, eff from and after July 1, 2010; Laws, 2018, ch. 401, § 11, eff from and after January 1, 2019.

Amendment Notes — The 2018 amendment, effective January 1, 2019, added (h); and substituted "department's" for "Tax Commission's" in the last paragraph.

§ 63-21-69. Application for and issuance of certificate of title and privilege license upon acquisition of vehicle.

JUDICIAL DECISIONS

1. Withholding certificate of title.

Creditor, a vehicle dealer, exercised control over debtor's vehicle in violation of the automatic stay by refusing to furnish him with an application for a new certificate of title as required by Mississippi Motor Vehicle and Manufactured Housing Title Law, even though debtor's counsel made him aware of the bankruptcy filing and automatic stay. Creditor's passive act of holding on to the existing certificate of title prevented debtor from lawfully driving the vehicle, which had the same effect as if creditor had repossessed the vehicle pre-petition and refused to return it post-petition. Parker v. Smith (In re Parker), 2014 Bankr. LEXIS 58 (Bankr. S.D. Miss. Jan. 6, 2014).

§ 63-21-70. Special license plate and windshield decals indicating impaired or limited ability to communicate with law enforcement [Effective January 1, 2021].

(1) Upon application by any legal resident of the State of Mississippi with a health condition or disability which limits or impairs the ability to effectively communicate with law enforcement, the department shall prepare and issue through the county tax collectors a special decal that is to be placed on license plates and on front left windshield corners bearing that indication for any vehicles that are registered in the applicant's name or otherwise authorized to be applied for by the applicant.

(2) The initial application shall be accompanied by the certification of a Mississippi licensed physician or Mississippi licensed psychologist who will prescribe that (a) the applicant or the applicant's child, parent or spouse has a physical or mental health condition that will impair the ability to effectively communicate with law enforcement; and (b) the physician or psychologist has determined that the applicant or the applicant's child, parent or spouse will have the communication impairment for at least five (5) years. The department shall prepare and issue to the tax collectors of the various counties, decals for placement on license plates.

(3) A person to whom the special decal is issued may retain the special decal and may renew it on the issuance of a new license plate by submitting to the county tax collector, on or before its expiration, the certification of a Mississippi licensed physician or Mississippi licensed psychologist who will prescribe that (a) the applicant or the applicant's child, parent or spouse has a physical or mental health condition that will impair the ability to effectively communicate with law enforcement; and (b) the physician or psychologist has determined that the applicant or the applicant's child, parent or spouse will have the communication impairment for at least five (5) years.

(4) Information supplied to the department or to the county tax collector is for confidential use and may not be disclosed to any person.

HISTORY: Laws, 2020, ch. 442, § 1, eff from and after January 1, 2021.

Editor's Notes — Laws of 2020, ch. 442, § 3, effective January 1, 2021, provides: "SECTION 3. Section 1 of this act shall be codified in Title 63, Chapter 21, Mississippi Code of 1972. Section 2 of this act shall be codified in Title 45, Chapter 6, Mississippi Code of 1972."

ARTICLE 2.

PROCEDURES FOR FORFEITURE OF VEHICLES SEIZED IN MOTOR VEHICLE SCRAPPING OR DISMANTLING VIOLATIONS.

Sec.
63-21-103. Vehicles subject to seizure; notice of intent to forfeit seized vehicle; petition to contest forfeiture.

§ 63-21-103. Vehicles subject to seizure; notice of intent to forfeit seized vehicle; petition to contest forfeiture.

(1) When any vehicle, trailer or similar conveyance is used in the commission of a violation of Section 63-21-39, the vehicle, trailer or similar conveyance so used is subject to seizure by the applicable law enforcement agency and the vehicle, trailer or similar conveyance may be forfeited by the administrative forfeiture procedures provided for in Sections 63-21-101 through 63-21-107.

(2) The attorney for or any representative of the seizing law enforcement agency shall provide notice of intention to forfeit the seized vehicle, trailer or similar conveyance administratively, either by certified mail, return receipt requested, or by personal delivery, to all persons who are required to be notified pursuant to this section.

(3) In the event that notice of intention to forfeit the seized vehicle, trailer or similar conveyance administratively cannot be given as provided in subsection (2) of this section because of refusal, failure to claim, insufficient address or any other reason, the attorney for or representative of the seizing law enforcement agency shall provide notice by publication in a newspaper of general circulation in the county in which the seizure occurred for once a week for three (3) consecutive weeks.

(4) Notice pursuant to subsections (2) and (3) of this section shall include the following information:

(a) A description of the vehicle, trailer or similar conveyance;

(b) The approximate value of the vehicle, trailer or similar conveyance;

(c) The date and place of the seizure;

(d) The connection between the vehicle, trailer or similar conveyance and the violation of Section 63-21-39;

(e) The instructions for filing a request for judicial review; and

(f) A statement that the vehicle, trailer or similar conveyance will be forfeited to the seizing law enforcement agency if a request for judicial review is not timely filed.

(5) Any person claiming an interest in a vehicle, trailer or similar conveyance which is the subject of a notice under this section may, within thirty (30) days after receipt of the notice or of the date of the first publication of the notice, file a petition to contest forfeiture signed by the claimant in the county court, if a county court exists, or otherwise in the circuit court of the county in which the seizure is made or the county in which the criminal prosecution is brought, in order to claim an interest in the vehicle, trailer or similar conveyance. Upon the filing of the petition and the payment of the filing fees, service of the petition shall be made on the attorney for or representative of the seizing law enforcement agency, and the proceedings shall thereafter be governed by the rules of civil procedure.

(6) If no petition to contest forfeiture is timely filed, the attorney for the seizing law enforcement agency shall prepare a written declaration of forfeiture of the subject vehicle, trailer or similar conveyance and the forfeited vehicle, trailer or similar conveyance shall be used, distributed or disposed of in accordance with the provisions of Section 63-21-107.

HISTORY: Laws, 2013, ch. 570, § 3, eff from and after July 1, 2013.

Editor's Notes — This section is being set out to correct an error in an internal reference in subsection (1). The reference to "Section 63-21-69" was changed to "Section 63-21-39."

CHAPTER 25.

MOTOR VEHICLE CHOP SHOP, STOLEN AND ALTERED PROPERTY ACT

Sec.
63-25-3. Definitions.

§ 63-25-3. Definitions.

As used in Sections 63-25-1 through 63-25-11, the following terms shall have the meaning ascribed to them herein:

(a) "Chop shop" means any building, lot or other premise where one or more persons are or have been knowingly engaged in altering, destroying, disassembling, dismantling, reassembling or knowingly storing any motor vehicle or motor vehicle part known to be illegally obtained by theft, fraud or conspiracy to defraud, in order to either:

(i) Alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate or remove the identity, including the vehicle identification number of such motor vehicle or motor vehicle part in order to misrepresent the identity of such motor vehicle or motor vehicle part, or to prevent the identification of such motor vehicle or motor vehicle part; or

(ii) Sell or dispose of such motor vehicle or motor vehicle part.

(b) "Motor vehicle" includes every device in, upon or by which any person or property is or may be transported or drawn upon a highway, which is self-propelled or which may be connected to and towed by a self-propelled device, and shall also include any and all other land-based devices which are self-propelled but which are not designed for use upon a highway, including, but not limited to, farm machinery, construction equipment, all-terrain vehicles and off-road vehicles.

(c) "Person" includes a natural person, company, corporation, unincorporated association, partnership, professional corporation and any other legal entity.

(d) "Unidentifiable" means that the uniqueness of a motor vehicle or motor vehicle part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle identification examination techniques, or by expert employees of not-for-profit motor vehicle theft prevention agencies specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle identification examination techniques.

(e) "Vehicle identification number" means a number or numbers, a letter or letters, a character or characters, a datum or data, a derivative or derivatives, or a combination or combinations thereof, used by the manufacturer for the purpose of uniquely identifying a motor vehicle or a motor vehicle part.

HISTORY: Laws, 1989, ch. 469, § 2; Laws, 2016, ch. 382, § 1, eff from and after July 1, 2016.

Amendment Notes — The 2016 amendment added "all-terrain vehicles and off-road vehicles" at the end of (b), and made related stylistic changes.

§ 63-25-5. Offenses and penalties.

JUDICIAL DECISIONS

2. Sufficiency of the evidence.

Defendant's conviction for possession of a motor vehicle with an altered VIN was supported by evidence of defendant's difficulty in obtaining a license plate for the truck and the officer's testimony regarding the unusual physical appearance of the sticker VIN. Harris v. State, — So. 3d —, 2020 Miss. App. LEXIS 499 (Miss. Ct. App. Aug. 25, 2020).

CHAPTER 33.

MISCELLANEOUS PROVISIONS

Sec.
63-33-1. Writing, sending or reading text message or reading or posting to social networking site using hand-held mobile telephone while operating vehicle prohibited; penalties.

§ 63-33-1. Writing, sending or reading text message or reading or posting to social networking site using hand-held mobile telephone while operating vehicle prohibited; penalties.

(1) For purposes of this section, the following terms shall have the meanings ascribed in this subsection, unless the context clearly indicates otherwise:

(a) "Hand-held mobile telephone" means a mobile telephone or other portable electronic communication device with which a user engages in a call or writes, sends or reads a text message using at least one hand. The term "hand-held mobile telephone" shall not include a voice-operated or hands-free device;

(b) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways;

(c) "Social networking site" means any web-based service that allows individuals to construct a profile within a founded system, articulate a list of other users with whom they share a connection, and communicate with other users of the site;

(d) "Text message" includes a text-based message, instant message, electronic message, and email, but shall not include an emergency, traffic or weather alert or a message related to the operation or navigation of the motor vehicle;

(e) "Voice operated or hands-free device" means a device that allows the user to write, send, or read a text message without the use of either hand except to activate, deactivate, or initiate a feature or function; and

(f) "Writing," "sending" and "reading," with respect to a text message, means the manual entry, sending, or retrieval of a text message, respectively, to communicate with any person or device.

(2) An operator of a moving motor vehicle is prohibited from writing, sending, or reading a text message and from accessing, reading or posting to a social networking site using a hand-held mobile telephone while driving said motor vehicle.

(3) A violation of this section is a civil violation, and upon being found in violation, is punishable by a civil penalty of Twenty-five Dollars ($25.00) for violations committed until July 1, 2016, and One Hundred Dollars ($100.00) for violations committed from and after July 1, 2016. No state assessments shall be imposed or collected for a violation under this section.

(4) The Department of Public Safety shall keep and maintain records of citations issued under this section, including the age and race of the vehicle operator, whether there was an additional traffic violation by the vehicle operator, and whether there was a crash or any damage to a vehicle or passenger at the time of the citation.

HISTORY: Laws, 2015, ch. 326, § 1, eff from and after July 1, 2015; Laws, 2018, ch. 378, § 1, eff from and after July 1, 2018.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint

Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in subsection (4) by substituting "under this section" for "under this statute." The Joint Committee ratified the correction at its August 17, 2015, meeting.

Amendment Notes — The 2018 amendment deleted (5), which read: "This section shall stand repealed on July 1, 2018."